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Washington, Tuesday, February 1, 1949

TITLE 3—THE PRESIDENT

EXECUTIVE ORDER 10032

CREATING AN EMERGENCY BOARD TO INVESTIGATE A DISPUTE BETWEEN THE AKRON, CANTON & YOUNGSTOWN RAILROAD COMPANY AND OTHER CARRIERS, AND CERTAIN OF THEIR EMPLOYEES

WHEREAS a dispute exists between the Akron, Canton & Youngstown Railroad Company and certain other carriers designated in the list attached hereto and made a part hereof, and certain of their employees represented by the Brotherhood of Locomotive Engineers, a labor organization; and

WHEREAS this dispute has not heretofore been adjusted under the provisions of the Railway Labor Act, as amended; and

WHEREAS this dispute, in the judgment of the National Mediation Board, threatens substantially to interrupt interstate commerce to a degree such as to deprive the country of essential transportation service:

NOW, THEREFORE, by virtue of the authority vested in me by section 10 of the Railway Labor Act, as amended (45 U. S. C. 160), I hereby create a board of three members, to be appointed by me, to investigate the said dispute. No member of the said board shall be pecuniarily or otherwise interested in any organization of employees or any carrier.

The board shall report its findings to the President with respect to the said dispute within thirty days from the date of this order.

As provided by section 10 of the Railway Labor Act, as amended, from this date and for thirty days after the board has made its report to the President, no change, except by agreement, shall be made by any of the carriers involved or its employees in the conditions out of which the said dispute arose.

HARRY S. TRUMAN

THE WHITE HOUSE,
January 28, 1949.

LIST

EASTERN REGION

Akron, Canton & Youngstown Railroad Co.
Baltimore & Ohio Railroad Co.
Baltimore & Ohio Chicago Terminal Railroad Co.
Staten Island Rapid Transit Ry. Co.
Central Railroad Company of New Jersey
Chesapeake & Ohio Railway Co. (Pere Marquette District)
Chicago, Indianapolis & Louisville Ry. Co.
Delaware & Hudson Railroad Corporation
Delaware, Lackawanna & Western Railroad Co.
Detroit, Toledo & Ironton Railroad Co.
Erie Railroad Company
Grand Trunk Western Railroad Co.
Lehigh Valley Railroad Co.
New York Central Railroad Co. and all leased lines
Chicago Junction Ry. (C. R. & I. R. R. Co., Lessee)
Chicago River & Indiana Railroad Co.
Indiana Harbor Belt Railroad Co.
New York, Chicago & St. Louis Railroad Co.
New York, New Haven & Hartford Railroad Co.
Pennsylvania Railroad Co.
Long Island Railroad Co.
Pennsylvania-Reading Seashore Lines
Reading Company
Wheeling & Lake Erie Ry. Co.
Lorain & West Virginia Ry. Co.

WESTERN REGION

Atchison, Topeka & Santa Fe Railway Co.
Belt Railway Company of Chicago
Burlington-Rock Island Railroad Co.
Chicago & Eastern Illinois Railroad Co.
Chicago & North Western Ry. Co.
Chicago, Burlington & Quincy Railroad Co.
Chicago Great Western Ry. Co.
Chicago, Milwaukee, St. Paul & Pacific Railroad Co.
Chicago, Rock Island & Pacific Railway Co.
Colorado & Southern Railway Co.
Denver & Rio Grande Western Railroad Co.
Duluth, South Shore & Atlantic Railroad Co.
Mineral Range Railroad Co.
Elgin, Joliet & Eastern Ry. Co.
Fort Worth & Denver City Ry. Co.
Wichita Valley Railway Co.
Gulf, Colorado & Santa Fe Railway Co.
Great Northern Railway Co.
Houston & North Shore Railroad Co.
Illinois Central Railroad Co.
International-Great Northern Railroad Co.
Kansas City Southern Ry. Co.
Kansas, Oklahoma & Gulf Ry. Co.
Midland Valley Railroad Co.
Minneapolis & St. Louis Ry. Co.
Minneapolis, St. Paul & Sault Ste. Marie Railroad Co.
Missouri-Kansas-Texas Railroad Co.
Missouri Pacific Railroad Co.
New Orleans, Texas & Mexico Railway Co.
Northern Pacific Railway Co.
St. Louis, Brownsville & Mexico Ry. Co.
St. Louis-San Francisco Ry. Co.
St. Louis Southwestern Ry. Co.
San Antonio, Uvalde & Gulf Railroad Co.
Southern Pacific Company (Pacific Lines)
Spokane, Portland & Seattle Ry. Co.
Oregon Trunk Ry. Co.

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EXECUTIVE AGENCIES

FEDERAL REGISTER

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Western Railway of Alabama
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Central of Georgia Railway Co.
Florida East Coast Railway Co.
Georgia Railroad Co.
Gulf, Mobile & Ohio Railroad Co.
Louisville & Nashville Railroad Co.
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[F. R. Doc. 49-788; Filed, Jan. 28, 1949; 5:14 p. m.]

RULES AND REGULATIONS

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Subchapter C—Loans, Purchases, and Other Operations

PART 648—POTATOES, IRISH

SUBPART—1949 POTATO ACREAGE GOALS

GENERAL

AUTHORITY: §§ 648.71 to 648.85 issued under Pub. Law 897, 80th Cong.

GENERAL

§ 648.71 *Applicability of §§ 648.71 to 648.85.* Sections 648.71 to 648.85 shall govern the establishment of farm acreage goals for Irish potatoes for use in connection with United States Department of Agriculture price support operations relating to the 1949 crop of such potatoes. The planting of potatoes in excess of the 1949 goal established for any farm, or, where separate goals are established for early and late potatoes, the planting or potatoes in excess of either of such goals, shall, subsequent to the date of such excess planting, render any person having an interest in such farm as operator, owner, landlord, tenant or partner ineligible to participate in 1949 potato price support operations. Such ineligibility shall extend also to any corporation or corporate stockholder whose operations are subject to substantially the same management, ownership, or control as those of a corporation or corporate stockholder planting potatoes in excess of an acreage goal. Potatoes which are produced on a farm owned or operated by a partnership shall be ineligible in case any partner plants potatoes on any other farm in excess of the acreage goal for such farm. The entire interest in potatoes planted within a non-commercial farm goal must be in the owner, or in the owner and the operator, of such entire farm. Any person having an interest, other than as owner or operator of the entire farm, in potato production from one or more non-commercial farms, shall be ineligible to participate in 1949 potato price support operations. Publicly owned experiment stations planting potatoes for experimental purposes only do not come within the scope of this program; no goal shall be established for such experimental plantings nor shall the potatoes produced thereon be eligible for acquisition under price support operations.

§ 648.72 *Definitions.* As used in §§ 648.71 to 648.85 and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them unless the context or subject matter requires otherwise.

(a) Committees: (1) "County committee" means the group of persons elected within a county to assist in the administration of the Agricultural Conservation Program in such county.

(2) "State committee" means the group of persons designated as the State committee of the Production and Marketing Administration charged with the responsibility of administering Production and Marketing Administration programs within the State.

(b) "Farm" means all adjacent or nearby farm land under the same ownership which is operated by one person, including also: (1) Any other adjacent or nearby farm land which the county committee, in accordance with instructions issued by the Production and Marketing Administration, determines is operated by the same persons as part of the same unit with respect to rotation of crops and with workstock, farm machinery and labor substantially separate from that for any other lands; and (2) any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops. A farm shall be regarded as located in the county in which the principal dwelling is situated, or if there is no dwelling thereon it shall be regarded as located in the county in which the major portion of the farm is located.

(c) "New farm" means a farm on which potatoes have not been planted since 1945 and on which the 1949 farm operator's personal history of potato production since 1945 is not used in determining the farm goal.

(d) "Old farm" means a farm on which potatoes have been planted in one or more years since 1945 or on which the 1949 farm operator's personal history of potato production since 1945 is used in determining the farm goal.

(e) "Commercial farm" means a farm for which a preliminary 1949 goal of three or more acres is established.

(f) "Non-commercial farm" means a farm on which potatoes are planted in 1949 and for which a preliminary 1949 potato acreage goal of three or more acres is not established.

(g) "National goal" means the total number of acres of Irish potatoes established by the United States Department of Agriculture as necessary to produce a 1949 crop sufficient for all domestic and export requirements without unduly curtailing production in any area.

(h) "State goal" means the number of acres out of the National goal allocated by the Production and Marketing Administration to be planted within a particular State.

(i) "Commercial goal" means that part of the total goal which is made available for apportioning to commercial farms.

(j) "Non-commercial goal" means that part of the total goal which is attributed to non-commercial farms. No direct apportionment of the non-commercial goal to any farm is provided.

(k) "Preliminary goal" is the acreage which the county committee preliminarily determines to be the proper goal for a farm, in view of the county limit as hereinafter defined, past goals on the farm, topography, crop rotation practice, and land, labor, and equipment available for the production, handling, and marketing of potatoes grown on the farm.

(l) "Final goal" for a farm is its preliminary goal after such goal has been adjusted by the county committee so that the total of all final goals in the county shall not exceed the county limit, pursuant to the procedure specified in §§ 648.73 and 648.78.

(m) "County limit" means the number of acres out of the State commercial goal allocated to a particular county for apportioning to commercial farms within that county.

(n) "Early potatoes" or "early acreage means potatoes of the early or intermediate harvest, or acreage planted to potatoes for early or intermediate harvest.

(o) "Late potatoes" or "late acreage" means storable variety potatoes of the late harvest, to be harvested no earlier than a date established by the State committee, or acreage planted to potatoes for late harvest.

(p) "Operator" means the person who is in charge of farming operations on the entire farm.

(q) "Person" means an individual, partnership, association, corporation, estate or trust or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(r) "Acreage planted to potatoes" means the number of acres on which potatoes are growing at the time of the official determination of potato acreage designed to establish whether the operator has planted within his goal, plus the acreage from which potatoes of the 1949 crop were harvested prior to such official determination of potato acreage.

(s) "Director" means Director of the Fruit and Vegetable Branch, Production and Marketing Administration, or a person or persons duly authorized to act in his behalf.

§ 648.73 *Extent of calculations and rule of fractions.* All acreages except final acreage goals shall be expressed to the nearest one-tenth acre and fractions of fifty-one thousandths of an acre or more shall be rounded upward and fractions of five-hundredths of an acre or less shall be dropped. Final goals of from three to ten acres may be established uniformly within a county to the nearest half-acre, and final goals larger than ten acres may be so established to the nearest acre.

§ 648.74 *Instructions and forms.* The Administrator of the Production and Marketing Administration shall cause to be prepared and issued such forms and instructions as may be deemed necessary or expedient in carrying out §§ 648.71 to 648.85.

NATIONAL AND STATE ACREAGE GOALS AND COUNTY LIMITS

§ 648.75 *Establishment of the national acreage goal and apportionment among the States.* The total 1949 potato acreage goal for all States is 1,938,300 acres which compares with 2,137,700 acres planted in 1948 and 2,148,600 acres planted in 1946. This acreage goal is based on an assumed goal yield of 186 bushels per acre which is the 3 year 1946–48 (as reported in October 1948) average yield per planted acre. This compares with average yields of 196 bushels in 1948 as reported in October 1948, 179 bushels in 1947 and 183 bushels in 1946. This acreage goal should produce a crop of approximately 350 million bushels.

In 1949 only the commercial goals will be issued to States. In previous years both commercial and non-commercial State goals were issued. The 1949 commercial goal is 1,223,100 acres which compares with an estimated planted commercial acreage of 1,422,500 in 1948 and a planted acreage of 1,379,100 acres in 1947. This 1949 commercial goal is 86 and 89 percent respectively of the commercial acreage in 1948 and 1947.

The largest reductions from 1948 estimated commercial acreage are called for in States along the eastern coast where surplus purchases have been particularly heavy and in early potato producing areas of California where planted acreage in 1948 exceeded the 1948 goal.

The State acreage goals for 1949 were calculated as follows:

(a) The 5-year 1943–47 average production by States was calculated.

(b) One-fourth of the 3-year (1945–47) average government purchases by States was deducted from the average production.

(c) Whenever the State total planted acreage in a particular State during 1946 and 1947 exceeded the State total acreage goal, this excess acreage was converted to bushels based on that year's yield per acre. This total excess production for the 2 years was divided by 5, and the resulting bushels were deducted from the 1943–47 average production.

(d) The residual number of bushels for each State was factored by .8687 to provide a 350 million bushel crop.

(e) The resulting goal production for each State was converted to acres by dividing such goal production by the 3-year 1946–48 (as reported in October 1948) yield per acre for such State.

(f) The State acreage was then divided between commercial and non-commercial acreage on the basis of data as to the operation of the 1947 and 1948 potato goal programs, and other available information. Commercial acreage is that goal acreage available for establishing preliminary goals of three or more acres of potatoes on an individual farm.

(g) No State was assigned a commercial acreage higher than 90 percent of its 1948 commercial planted acreage. This factor reduced the calculated U. S. production to 339 million bushels because of the assumption that non-commercial acreage would remain constant. All commercial acreage figures were then raised by 4.5 percent to balance out to a 350 million crop, except that no State was assigned a commercial goal higher than its 1947–48 average planted commercial acreage.

The 1949 Commercial Acreage Goals by States are as follows:

State:	Goal (1,000 acres)
Maine	141.3
New York, Long Island	45.2
New York, Upstate	46.9
Pennsylvania	64.1
Michigan	67.1
Wisconsin	38.5
Minnesota	68.0
North Dakota	121.3
South Dakota	12.1
Nebraska	31.7
Montana	8.8
Idaho	130.9
Wyoming	9.6
Colorado	60.3
Utah	9.8
Nevada	1.1
Washington	26.0
Oregon	32.4
California (late)	30.6
New Hampshire	2.2
Vermont	2.2
Massachusetts	7.0
Rhode Island	4.3
Connecticut	7.5
West Virginia	.9
Ohio	18.6
Indiana	7.6
Illinois	1.0
Iowa	1.7
New Mexico	.9
New Jersey	34.6
Delaware	.4
Maryland	5.0
Virginia	24.9
Kentucky	3.2
Missouri	3.2
Kansas	2.4
Arizona	3.0
North Carolina	20.5
South Carolina	7.9
Georgia	1.1
Florida	20.3
Tennessee	3.8
Alabama	15.1
Mississippi	.5
Arkansas	1.9
Louisiana	12.2
Oklahoma	.6
Texas	18.3
California (early)	44.6

U. S. Total Commercial Goal—1,223,100 acres.

§ 648.76 *Apportionment of the State commercial goal among the counties as county limits.* The State committee shall recommend for approval of the Director the county limit for each county within the State. The county limit shall be the acreage determined by the State committee as fair and reasonable for the county in relation to county limits established for other counties within the State, taking into consideration (a) the total acreage actually allocated in 1947 and 1948 as commercial farm goals, and (b) adjustments deemed necessary due to recognizable changes in the potato production pattern or marketing or other facilities in the State. Factors indicating such change may include, but not be limited to, an estimate of the extent to which the 1948 goal was planted or overplanted, and the frequency of appeals in 1948. A separate county limit shall be established for early and for late potatoes unless the State committee recommends and the Director approves the use of a single county limit as being adequate to obtain the proper relationship between early and late production within the county. The sum of the county limits for a State, plus a State reserve withheld for appeals, new farms, and the correction of errors, shall not exceed the State's commercial goal. The State reserve shall not exceed five percent of the State's commercial goal.

ACREAGE GOALS FOR COMMERCIAL FARMS

§ 648.77 *Determination of preliminary acreage goals of three or more acres for old farms.* The 1949 preliminary acreage goal for an old commercial farm shall be that acreage determined by the county committee to be fair and reasonable for the farm in relation to the preliminary goals established for other old

commercial farms in the county. This determination shall take into account the 1948 farm goal, with appropriate adjustments to reflect changes in past acreage, topography, crop rotation practice, and land, labor and equipment available for the production, handling, and marketing of potatoes. This determination shall also take into account 1949 intentions (if known), availability of grower's storage facilities for late potatoes, and such other relevant standards as may be established by the State committe. If both early and late potatoes are to be harvested from the same farm, a separate goal shall be established for each unless the farm is located in a county for which the use of a single county limit to apply to both early and late potatoes has been approved by the Director.

§ 648.78 *Final acreage goals for old commercial farms.* The preliminary acreage goals determined for all old commercial farms in any county pursuant to § 648.77 shall be equitably adjusted by the county committee so that the resulting total shall not exceed the county limit, and the individual farm acreage goal so adjusted shall be the 1949 final farm acreage goal, except that where this adjustment results in a goal of less than three acres, the 1949 final farm goal shall be the smaller of the 1949 planted acres or 2.9 acres.

§ 648.79 *Determination of acreage goals of three acres or more for new farms.* An application for a new farm goal of three or more acres shall be filed with the county committee prior to the final date set by each State committee for the consideration of such applications. The acreage goal for a new commercial farm shall be the acreage determined by the county committee and approved by the State committee as fair and reasonable for the farm in relation to the goals established for other new commercial farms in the county and State, taking into consideration personal and farm past history, topography, crop rotation practices, and land, labor and equipment available for the production, handling, and marketing of potatoes.

ACREAGE GOALS FOR NON-COMMERCIAL FARMS

§ 648.80 *Goal for non-commercial farm.* The 1949 acreage goal for any non-commercial farm shall be the smaller of the 1949 planted acreage or 2.9 acres. The 1949 acreage goal for the farm of any operator who does not receive formal notice of an acreage goal shall, in the absence of appeal and correction, be the non-commercial farm goal.

APPROVAL AND CORRECTION OF GOALS

§ 648.81 *Approval.* The State committee shall review all farm acreage goals of three or more acres, and may correct or require correction of any goals established by the county committee under §§ 648.71 to 648.85. All acreage goals of three or more acres shall be subject to approval by the State committee. No official notice of an acreage goal shall be mailed to an operator until such goal has been so approved.

§ 648.82 *Correction.* The Administrator of the Production and Marketing Administration may correct or require correction of any acreage goals established under §§ 648.71 to 648.85 by either the State committee or the county committee.

NOTICE AND APPEALS

§ 648.83 *Notice.* Notice of all farm acreage goals of three or more acres shall be mailed or delivered in person to the farm operators concerned whether or not the operator has requested a goal. Notice of a farm acreage goal of less than three acres is not required to be given unless the operator has requested an acreage goal.

§ 648.84 *Appeals.* Any operator who feels that his 1949 potato acreage goal is not fair and reasonable as compared with goals established for other potato farms in the area, may, within 15 days after the date shown on the notice of his farm goal, request the county committee in writing to reconsider its determination. In its reconsideration the county committee shall base its decision on the standards required to be used in making its original determination, in the light of any new information supplied by the operator or otherwise made available. The county committee shall make its decision and notify the operator in writing within 15 days after receiving notice of the appeal. If the operator is dissatisfied with the decision of the county committee, he may, within 15 days after its decision is mailed to him (or if it is delivered to him in person, within 15 days after such delivery), appeal in writing to the State committee. The State committee shall notify him of its decision in writing within 30 days after its receipt of the appeal.

§ 648.85 *Request for consideration.* An operator who has not requested a farm goal, and who is not notified of his 1949 farm acreage goal by reason of such goal not being set at three acres or more shall if he wishes such goal to be reconsidered, file the necessary request with the county committee within a reasonable time prior to planting potatoes on the farm.

Dated: January 26, 1949.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 49-753; Filed, Jan. 31, 1949; 8:50 a. m.]

TITLE 7—AGRICULTURE

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture

[Amdt. 3]

PART 418—WHEAT CROP INSURANCE

CONTINUOUS CONTRACTS COVERING 1949 AND SUCCEEDING CROP YEARS

The above-identified regulations (13 F. R. 2607, 5146, 6475) are hereby amended as follows:

1. Section 418.151 is amended to read as follows:

§ 418.151 *Availability of wheat crop insurance.* (a) Wheat crop insurance under continuous contracts for the 1949 and succeeding crop years will be provided only in accordance with this subpart in the following counties and under the type of coverage specified for each:

State and county	*Type of coverage*
California:	
San Luis Obispo	Commodity.
Sutter	Do.
Tulare	Do.
Colorado:	
Adams	Monetary.
Baca	Commodity.
Kit Carson	Monetary.
Logan	Do.
Phillips	Do.
Weld	Commodity.
Idaho:	
Idaho	Do.
Latah	Monetary.
Lewis	Commodity.
Nez Perce	Do.
Teton	Do.
Illinois:	
Christian	Do.
Macoupin	Monetary.
Madison	Commodity.
Mason	Do.
Monroe	Do.
St. Clair	Do.
Sangamon	Do.
Washington	Do.
Indiana:	
Allen	Do.
Decatur	Do.
DeKalb	Do.
Kosciusko	Do.
Noble	Do.
Rush	Do.
Shelby	Do.
Sullivan	Monetary.
Kansas:	
Barton	Do.
Clay	Commodity.
Cloud	Monetary.
Cowley	Commodity.
Dickinson	Do.
Ford	Monetary.
Harvey	Commodity.
Kingman	Do.
Lincoln	Monetary.
McPherson	Commodity.
Marion	Do.
Marshall	Do.
Mitchell	Monetary.
Nemaha	Commodity.
Osborne	Monetary.
Pawnee	Do.
Pratt	Commodity.
Rawlins	Monetary.
Reno	Commodity.
Republic	Monetary.
Rush	Do.
Russell	Commodity.
Scott	Monetary.
Sedgwick	Commodity.
Sherman	Monetary.
Stanton	Do.
Sumner	Commodity.
Trego	Monetary.
Washington	Commodity.
Maryland:	
Carroll	Do.
Kent	Monetary.
Michigan:	
Clinton	Do.
Eaton	Commodity.
Gratiot	Monetary.
Hillsdale	Commodity.
Monroe	Do.
Minnesota:	
Clay	Do.
Kittson	Do.
Marshall	Do.
Norman	Do.
Polk	Do.
Missouri:	
Bates	Do.
Cass	Do.
Chariton	Monetary.
Cooper	Commodity.

State and County	Type of coverage
Missouri—Continued	
Lafayette	Monetary.
Pike	Do.
St. Charles	Commodity.
Saline	Do.
Vernon	Monetary.
Montana:	
Blaine	Commodity.
Chouteau	Do.
Daniels	Do.
Fergus	Do.
Hill	Do.
Judith Basin	Do.
Liberty	Do.
McCone	Monetary.
Pondera	Commodity.
Roosevelt	Do.
Sheridan	Do.
Valley	Do.
Nebraska:	
Buffalo	Do.
Chase	Monetary.
Cheyenne	Commodity.
Deuel	Do.
Gage	Do.
Hamilton	Monetary.
Jefferson	Commodity.
Kimball	Do.
Nuckells	Do.
Richardson	Do.
Saline	Do.
Saunders	Do.
Seward	Do.
New Mexico:	
Curry	Do.
Quay	Do.
New York:	
Ontario	Do.
Seneca	Do.
North Dakota:	
Benson	Do.
Bottineau	Do.
Burleigh	Do.
Cass	Do.
Grand Forks	Monetary.
Griggs	Commodity.
LaMoure	Do.
McIntosh	Do.
McKenzie	Do.
McLean	Do.
Mercer	Monetary.
Morton	Commodity.
Pembina	Do.
Pierce	Monetary.
Ramsey	Commodity.
Sargent	Monetary.
Sheridan	Commodity.
Steele	Do.
Stutsman	Do.
Traill	Do.
Walsh	Do.
Ward	Do.
Williams	Do.
Ohio:	
Franklin	Do.
Greene	Do.
Highland	Do.
Mercer	Do.
Preble	Do.
Putman	Do.
Seneca	Do.
Stark	Do.
Tuscarawas	Do.
Williams	Do.
Oklahoma:	
Alfalfa	Do.
Beckham	Do.
Blaine	Monetary.
Custer	Commodity.
Garfield	Monetary.
Grady	Do.
Greer	Commodity.
Jackson	Monetary.
Kingfisher	Commodity.
Kiowa	Do.
Tillman	Monetary.
Oregon:	
Gilliam	Commodity.
Morrow	Do.
Sherman	Do.
Umatilla	Do.
Union	Do.
Pennsylvania:	
Berks	Do.
Chester	Do.
Lancaster	Do.
Lycoming	Do.
South Dakota:	
Brown	Do.
Codington	Do.
Day	Do.
Dewey	Do.
Edmunds	Do.
Faulk	Do.
Marshall	Do.
McPherson	Do.
Meade	Do.
Perkins	Do.
Potter	Do.
Spink	Do.
Tripp	Do.
Texas:	
Castro	Monetary.
Collin	Commodity.
Deaf Smith	Monetary.
Denton	Commodity.
Floyd	Monetary.
Grayson	Commodity.
Hale	Monetary.
Jones	Do.
Knox	Do.
Runnels	Commodity.
Swisher	Monetary.
Taylor	Commodity.
Utah:	
Box Elder	Do.
Washington:	
Adams	Do.
Benton	Monetary.
Douglas	Commodity.
Franklin	Do.
Grant	Do.
Walla Walla	Do.
Whitman	Do.
Wyoming:	
Goshen	Do.

(b) Insurance will not be provided with respect to applications for wheat insurance filed in a county in accordance with this subpart unless such written applications, together with wheat crop insurance contracts in force for the ensuing crop year, cover at least 200 farms in the county or one-third of the farms normally producing wheat. For this purpose an insurance unit shall be counted as one farm.

2. Section 418.154, as amended, is amended by adding the following county and closing date in paragraph (a):

State and county[1]	Date
Montana: Blaine	March 15

Adopted by the Board of Directors on January 24, 1949.

(52 Stat. 73–75, 77, 61 Stat. 718, 7 U. S. C., and Sup., 1506 (e), 1507 (c), 1508, 1509, 1516 (b).)

[SEAL] E. D. BERKAW,
Secretary,
Federal Crop Insurance Corporation.

Approved: January 26, 1949.

CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 49-742; Filed, Jan. 31, 1949; 8:47 a. m.]

PART 421—DRY EDIBLE BEAN CROP INSURANCE

SUBPART—ANNUAL CONTRACTS COVERING THE 1949 CROP YEAR (MONETARY COVERAGE INSURANCE)

The Federal Crop Insurance Program is part of the general program of the United States Department of Agriculture administered for the benefit of agriculture.

By virtue of the authority vested in the Federal Crop Insurance Corporation by the Federal Crop Insurance Act, as amended, these regulations are hereby published and prescribed to be in force and effect, with respect to annual bean crop insurance contracts for the 1949 crop year, until amended or superseded by regulations hereafter made.

Sec.

AUTHORITY: §§ 421.1 through 421.15 issued under secs. 506 (e), 507 (c), 508, 509, 516 (b), 52 Stat. 73–75, 77, 61 Stat. 718; 7 U. S. C., and Sup., 1506 (e), 1507 (c), 1508, 1509, 1516 (b).

§ 421.1 *Availability of bean crop insurance.* (a) Bean crop insurance under an annual contract will be provided only in accordance with this subpart and in the counties and on the class(es) of beans specified below:

State	County	Class(es) of beans insured
Colorado	Elbert	Pinto.
Idaho	Jerome	Great Northern.
		Pinto.
		Small red.
Michigan	Huron	Pea and medium white.
	Saginaw	Do.
New Mexico	Torrance	Pinto.
New York	Livingston	Red kidney.
		Pea and medium white.
	Wayne	Red kidney.
Wyoming	Big Horn	Great Northern.
		Pinto.
	Goshen	Great Northern.
		Pinto.

(b) Bean crop insurance will not be provided in a county unless written applications are filed which cover at least 200 farms or one-third of the farms normally producing dry edible beans. For this purpose an insurance unit shall be counted as one farm.

§ 421.2 *Coverages per acre.* The Corporation shall establish coverages per acre, by areas, which shall not be in excess of the maximum limitations prescribed in the Federal Crop Insurance

Act. Coverages so established shall be shown on the county actuarial table and shall be on file in the county office.

§ 421.3 *Premium rates.* The Corporation shall establish premium rates per acre, by areas, for all acreage for which coverages are established and such rates shall be those deemed adequate to cover claims for bean crop losses and to provide the reserve prescribed in the Federal Crop Insurance Act. Premium rates so established shall be shown on the county actuarial table and shall be on file in the county office.

§ 421.4 *Application for insurance.* Application for insurance on Form FCI-912–B, "Application for Bean Crop Insurance" may be made by any person to cover his interest as landlord, owner-operator, or tenant. Applications shall be submitted to the county office on or before the following closing dates for filing applications: April 30, 1949, for Big Horn County, Wyoming and Torrance County, New Mexico. May 15, 1949, for Elbert County, Colorado; Goshen County, Wyoming and Jerome County, Idaho. May 31, 1949, for Huron and Saginaw Counties, Michigan; and Livingston and Wayne Counties, New York.

§ 421.5 *The contract.* Upon acceptance of an application for insurance by a duly authorized representative of the Corporation, the contract shall be in effect and will consist of the application and the bean crop insurance policy issued by the Corporation. The provisions of this policy are shown in § 421.15.

§ 421.6 *Price for valuing production.* The value of production shall be determined as follows:

(a) In Wayne County, New York, the production determined in accordance with the production schedule appearing in section 15 of the policy shall be multiplied by the applicable price in the following price schedule:

RED KIDNEY BEANS

[Per cwt., net weight. Base price $8.15]

Percent pick:		Percent pick:	
1	$8.00	11	$6.48
2	7.85	12	6.33
3	7.70	13	6.18
4	7.54	14	6.03
5	7.39	15	5.88
6	7.24	16	5.73
7	7.09	17	5.57
8	6.94	18	5.42
9	6.79	19	5.27
10	6.64	20	5.12

If the pick exceeds 20 percent, the applicable price to be used in determining the value of production shall be the lesser of $5.12 or the local market value per cwt. net weight, as determined by the Corporation.

For beans containing moisture in excess of 18 percent and not in excess of 20 percent, a deduction of 10 cents shall be made from the above applicable price. For beans containing moisture in excess of 20 percent, a deduction from the applicable price shall be made of 10 cents plus one cent for each two-tenths of one percent moisture in excess of 20 percent.

(b) In Livingston County, New York, the production determined in accordance with the production schedule appearing in section 15 of the policy shall be multiplied by the applicable price in the following price schedule:

[Per cwt., net weight. Red Kidney bean base price $8.15. Pea and Medium White bean base price $6.64]

	Red Kidney	Pea and Medium White
Percent pick:		
1	$8.00	$6.49
2	7.85	6.35
3	7.70	6.20
4	7.54	6.05
5	7.39	5.91
6	7.24	5.76
7	7.09	5.62
8	6.94	5.47
9	6.79	5.32
10	6.64	5.18
11	6.48	5.03
12	6.33	4.88
13	6.18	5.74
14	6.03	5.59
15	5.88	5.44
16	5.73	5.30
17	5.57	5.15
18	5.42	5.00
19	5.27	4.86
20	5.12	4.71

If the pick exceeds 20 percent, the applicable price to be used in determining the value of production shall be the lesser of the applicable 20 percent pick price shown above or the local market value per cwt. net weight, as determined by the Corporation.

For beans containing moisture in excess of 18 percent and not in excess of 20 percent, a deduction of 10 cents shall be made from the above applicable price. For beans containing moisture in excess of 20 percent, a deduction from the applicable price shall be made of 10 cents plus one cent for each two-tenths of one percent moisture in excess of 20 percent.

(c) In Huron and Saginaw Counties, Michigan, the production determined in accordance with the production schedule appearing in section 15 of the policy shall be multiplied by the applicable price in the following price schedule:

PEA AND MEDIUM WHITE BEANS

[Per cwt., net weight. Base price $7.05]

Percent pick:		Percent pick:	
1	$6.90	11	$5.50
2	6.75	12	5.48
3	6.60	13	5.35
4	6.45	14	5.22
5	6.35	15	5.15
6	6.21	16	5.08
7	6.07	17	5.00
8	5.93	18	4.88
9	5.79	19	4.76
10	5.65	20	4.64

If the pick exceeds 20 percent, the applicable price to be used in determining the value of production shall be the lesser of $4.64 or the local market value per cwt. net weight of such beans, as determined by the Corporation.

For beans containing moisture in excess of 18 percent and not in excess of 20 percent, a deduction of 10 cents shall be made from the above applicable price. For beans containing moisture in excess of 20 percent, a deduction from the applicable price shall be made of 10 cents, plus one cent for each two-tenths of one percent moisture in excess of 20 percent.

(d) In Jerome County, Idaho the production determined in accordance with the production schedule appearing in section 15 of the policy shall be multiplied by the applicable price in the following price schedule:

[Per cwt., net weight]

	Great Northern beans	Pinto beans	Small Red beans
Base price	$6.70	$7.25	$6.95
U. S. No. 1	6.60	7.15	6.85
U. S. No. 2	6.45	7.00	6.70
U. S. No. 3	6.05	6.75	6.45

GREAT NORTHERN BEANS

Percent of pick:		Percent of pick:	
7	$5.88	14	$4.69
8	5.71	15	4.52
9	5.54	16	4.35
10	5.37	17	4.18
11	5.20	18	4.01
12	5.03	19	3.84
13	4.86	20	3.67

In the case of Great Northern beans, if the pick exceeds 20 percent, the applicable price to be used in determining the value of production shall be the lesser of $3.67 or the local market value of such beans per cwt. net weight, as determined by the Corporation.

In the case of Pinto beans, if the beans grade U. S. Substandard or U. S. Sample, the applicable price to be used in determining the value of production shall be the lesser of $6.75 or the local market value of such beans per cwt. net weight, as determined by the Corporation.

In the case of Small Red beans, if the beans grade U. S. Substandard or U. S. Sample, the applicable price to be used in determining the value of production shall be the lesser of $6.45 or the local market value of such beans per cwt. net weight, as determined by the Corporation.

(e) In Big Horn County, Wyoming, the production determined in accordance with the production schedule appearing in section 15 of the policy shall be multiplied by the applicable price in the following price schedule:

[Per cwt., net weight]

	Great Northern beans	Pinto beans
Base price	$6.90	$7.40
U. S. No. 1	6.80	7.30
U. S. No. 2	6.65	7.15
U. S. No. 3	6.15	6.90

GREAT NORTHERN BEANS

Percent of pick:		Percent of pick:	
7	$6.06	14	$4.88
8	5.89	15	4.71
9	5.72	16	4.54
10	5.55	17	4.37
11	5.33	18	4.20
12	5.22	19	4.03
13	5.05	20	3.86

In the case of Great Northern beans, if the pick exceeds 20 percent, the applicable price to be used in determining the value of production shall be the lesser of $3.86 or the local market value of such beans per cwt. net weight, as determined by the Corporation.

In the case of Pinto beans, if the beans grade U. S. Substandard or U. S. Sample, the applicable price to be used in determining the value of production shall be the lesser of $6.90 or the local

market value of such beans per cwt. net weight, as determined by the Corporation.

(f) In Goshen County, Wyoming, the production determined in accordance with the production schedule appearing in section 15 of the policy shall be multiplied by the applicable price in the following price schedule:

[Per cwt., net weight]

	Great Northern beans	Pinto beans
Base price	$7.05	$7.55
U. S. No. 1	6.95	7.45
U. S. No. 2	6.80	7.30
U. S. No. 3		7.05

GREAT NORTHERN BEANS

Percent of pick:		Percent of pick:	
5	$6.65	13	$5.45
6	6.50	14	5.30
7	6.35	15	5.15
8	6.20	16	5.00
9	6.05	17	4.85
10	5.90	18	4.70
11	5.75	19	4.55
12	5.60	20	4.40

In the case of Great Northern beans, if the pick exceeds 20 percent, the applicable price to be used in determining the value of production shall be the lesser of $4.40 or the local market value of such beans per cwt. net weight, as determined by the Corporation.

In the case of Pinto beans, if the beans grade U. S. Substandard or U. S. Sample, the applicable price to be used in determining the value of production shall be the lesser of $7.05 or the local market value of such beans per cwt. net weight, as determined by the Corporation.

(g) In Elbert County, Colorado, and Torrance County, New Mexico, the production determined in accordance with the production schedule appearing in section 15 of the policy shall be multiplied by the applicable price in the following price schedule:

PINTO BEANS

[Per cwt., net weight. Base price $7.40]

U. S. No. 1	$7.30
U. S. No. 2	7.15
U. S. No. 3	6.90

If the beans grade U. S. Substandard or U. S. Sample, the applicable price to be used in determining the value of production shall be the lesser of $6.90 or the local market value of such beans per cwt. net weight, as determined by the Corporation.

(h) In all counties the applicable price for appraised production shall be that determined by the Corporation on the basis of its estimate of the applicable grade or pick.

§ 421.7 *Person to whom indemnity shall be paid.* (a) Any indemnity payable under a contract shall be paid to the insured or such other person as may be entitled to the benefits of the contract under the provisions of this subpart, notwithstanding any attachment, garnishment, receivership, trustee process, judgment, levy, equity, or bankruptcy directed against the insured or such other person, or against any indemnity alleged to be due to such person(s); nor shall the Corporation or any officer, employee, or representative thereof, be a proper party to any suit or action with reference to such indemnity, nor be bound by any judgment, order, or decree rendered or entered therein. No officer, agent, or employee of the Corporation shall, because of any such process, order, or decree, pay or cause to be paid to any person other than the insured or other person entitled to the benefits of the contract, any indemnity payable in accordance with the provisions of the contract. Nothing herein contained shall excuse any person entitled to the benefits of the contract from full compliance with, or performance of, any lawful judgment, order, or decree with respect to the disposition of any sums paid thereunder as an indemnity.

(b) The determination of the Corporation as to the existence or nonexistence of a circumstance in the event of which indemnity payment may be made and of the person(s) to whom such payment will be made shall be final and conclusive, and payment of an indemnity to such person(s) shall constitute a complete discharge of the Corporation's obligation with respect to the loss for which such indemnity is paid and settled and shall be a bar to recovery by any other person.

§ 421.8 *Public notice of indemnities paid.* The Corporation shall provide for the posting in each county at the county courthouse of a list of indemnities paid for losses on farms in such county.

§ 421.9 *Death, incompetence, or disappearance of insured.* (a) If the insured dies, is judicially declared incompetent, or disappears after the planting of the bean crop but before the time of loss, and his insured interest in the bean crop is a part of his estate at such time, or if the insured dies, is judicially declared incompetent, or disappears subsequent to such time, the indemnity, if any, shall be paid to the legal representative of his estate, if one is appointed or is duly qualified. If no such representative is or will be so qualified, the indemnity shall be paid to the persons beneficially entitled to share in the insured interest in the bean crop or to any one or more of such persons on behalf of all such persons: *Provided, however,* That if the indemnity exceeds $500, the Corporation may withhold the payment of the indemnity until a legal representative of the insured's estate is duly qualified to receive such payment.

(b) If the insured dies, is judicially declared incompetent, or disappears after the planting of the bean crop but before the time of loss, and his insured interest in the bean crop is not a part of his estate at such time, the indemnity, if any, shall be paid to the person(s) who succeeded to his interest in the crop in the manner provided for in the bean crop insurance policy.

(c) If an applicant for insurance or the insured, as the case may be, dies, or is judicially declared incompetent less than 15 days before the closing date for the filing of applications for insurance and before the beginning of planting of the bean crop intended to be covered by insurance, whoever succeeds him on the farm with the right to plant the bean crop as his heir or heirs, administrator, executor, guardian, committee or conservator, shall be substituted for the original applicant or the insured upon filing with the county office within 15 days (unless such period is extended in writing by the Corporation) after the date of such death, judicial declaration, or before the date of the beginning of planting of the bean crop, whichever is earlier, a statement in writing in the form and manner prescribed by the Corporation, requesting such substitution and agreeing to assume the obligations of the original applicant arising out of such application or the contract. If no such statement is filed, as required by this paragraph, the original application or contract shall be void.

(d) The insured may be deemed to have disappeared within the meaning of this subpart if he fails to file with the county office written notice of his new mailing address within 180 calendar days after any communication by or on behalf of the Corporation is returned undeliverable at the last known address of the insured.

§ 421.10 *Fiduciaries.* Any indemnity payable under a contract entered into in the name of a fiduciary who is no longer acting in such capacity at the time for the payment of indemnity, will be made to the succeeding fiduciary upon appropriate application and proof satisfactory to the Corporation of his incumbency. If there is no succeeding fiduciary, payment of the indemnity shall be made to the persons beneficially entitled under this subpart to the insured interest in the bean crop to the extent of their respective interest, upon proper application and proof of the facts: *Provided, however,* That the settlement may be made with any one or more of the persons in behalf of all the persons so entitled, whether or not the person to whom payment is made has been authorized by the other interested persons to receive such payment.

§ 421.11 *Assignment or transfer of claims for refunds of excess note payments not permitted.* No claim for a refund of an excess note payment or any part thereof, or any interest therein, shall be assignable or transferable, notwithstanding any assignment of the contract or any transfer of interest in the bean crop covered by the contract. Refund of any excess note payment will be made only to the person who made such payment, except as provided in § 421.12.

§ 421.12 *Refund of excess note payments in case of death, incompetence, or disappearance.* In any case where a person who is entitled to a refund of an excess note payment has died, has been judicially declared incompetent, or has disappeared, the provisions of § 421.9 with reference to the payment of indemnities in any such case shall be applicable with respect to the making of any such refund.

§ 421.13 *Creditors.* An interest (including an involuntary transfer) in an insured bean crop existing by virtue of a debt, lien, mortgage, garnishment, levy, execution, bankruptcy, or any other

process shall not entitle any holder of any such interest to any benefits under the contract.

§ 421.14 *Rounding of fractions.* The premium, the total coverage and the value of the total production shall be rounded to cents. Total production shall be rounded to pounds. Fractions of acres shall be rounded to tenths of acres. Computations shall be carried one digit beyond the digit that is to be rounded. If the last digit is 1, 2, 3, or 4, the rounding shall be downward. If the last digit is 5, 6, 7, 8, or 9, the rounding shall be upward.

§ 421.15 *The policy.* The provisions of the bean crop insurance policy are as follows:

In consideration of the representations and provisions in the application upon which this policy is issued, which application is made a part of the contract, and subject to the terms and condtions set forth or referred to herein, the Federal Crop Insurance Corporation (hereinafter designated as the "Corporation") does hereby insure

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Name Policy number

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Address County State

(hereinafter designated as the "insured") against loss on his dry edible bean crop while in the field due to unavoidable causes including drought, flood, hail, wind, frost, freeze, lighting, fire, excessive rain, snow, wildlife, hurricane, tornado, insect infestation, plant disease and such other unavoidable causes as may be determined by the Board of Directors of the Corporation.

(For irrigated acreage also see section 30.)

In witness whereof, the Federal Crop Insurance Corporation has caused this policy to be issued this ------ day of ---------- 1949.

FEDERAL CROP INSURANCE CORPORATION,

By ----------
State Crop Insurance Director.

TERMS AND CONDITIONS

1. *Classes of beans insured.* The class or classes of beans to be insured shall be those specified on the application for insurance.

2. *Insurable acreage.* Any acreage is insurable only if a coverage is shown therefor on the county actuarial table (including maps and related forms) on the applicable calendar closing date for filing applications fo rinsurance (hereinafter called the "closing date") provided the farming practice followed on such acreage is one for which a coverage was established.

3. *Responsibility of insured to report acreage and interest.* Each applicant shall specify on his application the number of acres of beans in which he expects to have an interest on each insurance unit in the county, and his interest in each such acreage. These data may be revised by the applicant on or before the closing date. After the completion of planting of the bean crop on any insurance unit covered by the contract, but not later than July 15, 1949, the insured may file a revised report with respect to such unit showing the actual acreage of beans planted thereon, provided the planted bean acreage for the insurance unit is not more than the bean acreage shown on the application for such unit as of the closing date.

4. *Insured acreage.* The insured acreage with respect to each insurance unit shall be the acreage of beans as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, except that insurance shall not attach with respect to (a) any acreage planted to beans which is destroyed or substantially destroyed (as defined in section 11) and on which it is practical to replant to beans, as determined by the Corporation, and such acreage is not replanted to beans, (b) any acreage initially planted to beans too late to expect a normal crop to be produced, as determined by the Corporation, and (c) new ground acreage. (For irrigated acreage also see section 30.)

5. *Insured interest.* The insured interest in the bean crop covered by the contract shall be the insured's interest at the time of planting as specified on the application or the interest which the Corporation determines as the insured's actual interest in the crop at the time of planting, whichever the Corporation shall elect. For the purpose of determining the amount of loss the insured interest shall not exceed the insured's actual interest at the time of loss or the beginning of harvest, whichever occurs first.

6. *Coverage per acre.* (a) The coverage per acre is progressive by stages of production as follows:

First stage. Acreage released by the Corporation and not pulled or cut.

Second stage. Acreage released by the Corporation after pulling or cutting but before threshing.

Third stage. Acreage threshed.

(b) The coverage per acre shall be the applicable number of dollars, established for the area in which the insured acreage is located, and shall be shown by practice(s) on the county actuarial table on file in the county office.

7. *Predetermined price for valuing production.* In determining any loss under the contract, the value of the production shall be determined on the basis of the applicable price(s) shown in the attached price rider.

8. *Insurance period.* Insurance with respect to any insured acreage shall attach at the time the beans are planted. Insurance shall cease with respect to any portion of the bean crop covered by the contract upon threshing or removal from the field, but in no event shall the insurance remain in effect later than December 15, 1949, unless such time is extended in writing by the Corporation.

9. *Causes of loss not insured against.* The contract shall not cover loss caused by: (a) Failure to follow recognized good farming practices; (b) poor farming practices, including but not limited to the use of defective or unadapted seed, failure to plant a sufficient quantity of seed, failure properly to prepare the land for planting or properly to plant, care for or harvest and thresh the insured crop (including unreasonable delay thereof); (c) following different fertilizer or farming practices than those considered in establishing the coverage per acre; (d) planting beans on land which is generally not considered capable of producing a bean crop comparable to that produced on the land considered in establishing the coverage per acre; (e) planting excessive acreage under abnormal conditions; (f) planting another crop with the beans or in the growing bean crop; (g) planting beans under conditions of immediate hazard; (h) inability to obtain labor, seed, fertilizer, machinery, repairs or insect poison; (i) break-down of machinery, or failure of equipment due to mechanical defects; (j) neglect or malfeasance of the insured or of any person in his household or employment or connected with the farm as tenant or wage hand; (k) domestic animals or poultry; or (l) theft. (For irrigated acreage also see section 30.)

10. *Notice of loss or damage.* (a) If a loss under the contract is probable, notice in writing (unless otherwise provided by the Corporation) shall be given the Corporation at the county office immediately after any material damage to the insured bean crop. The crop shall not be harvested, removed, or any other use made of it until it has been inspected by the Corporation.

(b) If, at the completion of threshing of the insured bean crop, a loss under the contract has been sustained, notice in writing (unless otherwise provided by the Corporation) shall be given immediately to the Corporation at the county office. If such notice is not given within 15 days after threshing is completed, or February 10, 1950, whichever date is earlier, the Corporation reserves the right to reject any claim for indemnity.

11. *Released acreage.* Any insured acreage on which the bean crop has been destroyed or substantially destroyed may be released by the Corporation to be put to another use. The bean crop shall be deemed to have been substantially destroyed if the Corporation determines that it has been so badly damaged that farmers generally in the area where the land is located and on whose farms similar damage occurred would not further care for the crop or harvest any portion thereof. No insured acreage may be put to another use until the Corporation releases such acreage.

On any acreage where the bean crop has been partially destroyed but not released by the Corporation, proper measures shall be taken to protect the crop from further damage. There shall be no abandonment of any crop or portion thereof to the Corporation.

12. *Time of loss.* Any loss shall be deemed to have occurred at the end of the insurance period unless the entire bean crop on the insurance unit was destroyed or substantially destroyed earlier, in which event the loss shall be deemed to have occurred on the date of such destruction, as determined by the Corporation.

13. *Proof of loss.* If a loss is claimed, the insured shall submit to the Corporation, a form entitled "Statement in Proof of Loss," containing such information regarding the manner and extent of the loss as may be required by the Corporation. The statement in proof of loss shall be submitted not later than sixty days after the time of loss, unless the time for submitting the claim is extended in writing by the Corporation. It shall be a condition precedent to any liability under the contract that the insured establish the amount of any loss for which claim is made, and that such loss has been directly caused by one or more of the hazards insured against by the contract during the insurance period, and that the insured further establish that the loss has not arisen from or been caused by, either directly or indirectly, any of the causes of loss not insured against by the contract. If a loss is claimed, any insured bean acreage which is not to be harvested shall be left intact until the Corporation makes an inspection.

14. *Insurance unit.* Losses shall be determined separately for each insurance unit except as provided in section 15 (b). An insurance unit consists of (a) all the insurable acreage of beans in the county in which the insured has 100 percent interest at the time of planting, or (b) all the insurable acreage of beans in the county which is owned by one person and is operated by the insured as a share tenant at the time of planting, or (c) all the insurable acreage of beans in the county which is owned by the insured and is rented to one share tenant at the time of planting. Acreage shall be considered to be located in the county if a coverage is shown therefor on the county actuarial table. Land rented for cash or for a fixed commodity payment shall be considered as owned by the lessee.

15. *Amount of loss.* (a) The amount of loss with respect to any insurance unit shall be determined by (1) multiplying the planted acreage (exclusive of any acreage to which insurance did not attach) by the applicable coverage per acre, (2) subtracting therefrom the value (based on the applicable price set forth in the attached price rider) of the total production, and (3) multiplying the remainder by the insured interest in such

unit. However, if the planted acreage on the insurance unit exceeds the insured acreage on the insurance unit, or if the premium computed for the planted acreage is more than the premium computed for the insured acreage, the amount of loss so determined shall be reduced. This reduction shall be made on the basis of the ratio of the insured acreage to the planted acreage except that the Corporation may elect to make the reduction on the basis of the ratio of the premium computed for the insured acreage to the premium computed for the planted acreage. The total production for an insurance unit shall include all production determined in accordance with the following schedule.

PRODUCTION SCHEDULE

Acreage classification	*Total production [cwt.—net weight]*
1. Acreage on which beans are threshed.	Actual production of beans threshed.
2. Acreage released by the Corporation before pulling or cutting.	That portion of the appraised production for such acreage which is in excess of the number of cwt. determined by (1) subtracting the total coverage for such acreage from what the total coverage for such acreage would be if the acreage were threshed, and (2) dividing the result thus obtained by the applicable base price set forth in the attached price rider.
3. Acreage released by the Corporation after pulling or cutting but before threshing.	That portion of the appraised production for such acreage which is in excess of the number of cwt. determined by (1) subtracting the total coverage for such acreage from what the total coverage for such acreage would be if the acreage were threshed and (2) dividing the result thus obtained by the applicable base price set forth in the attached price rider.
4. Acreage put to another use without the consent of the Corporation.	Appraised production for such acreage but not less than the product of (1) such acreage and (2) the cwt. equivalent of the coverage per acre for threshed acreage determined on the basis of the applicable price set forth in the attached price rider.
5. Acreage with reduced yield due solely to cause(s) not insured against.	Appraised number of cwt. by which production for such acreage has been reduced, but not less than the product of (1) such acreage and (2) the cwt. equivalent of the coverage per acre for threshed acreage determined on the basis of the applicable price set forth in the attached price rider, minus any threshed beans.
6. Acreage with reduced yield due partially to cause(s) not insured against and partially to cause(s) insured against.	Appraised number of cwt. by which production has been reduced because of cause(s) not insured against.

(b) If the production from two or more insurance units is commingled and the insured fails to establish and maintain records satisfactory to the Corporation of acreage or the production from each, the insurance with respect to such units may be voided by the Corporation and the premium forfeited by the insured. However, if all the component parts are insured, the total coverage for the component parts may be considered by the Corporation as the total coverage for the combination, in which case any loss for such combination shall be determined as outlined in paragraph (a) of this section. Where the insured fails to establish and maintain separate records, satisfactory to the Corporation, of uninsured acreage and production therefrom and for one or more insurance units or portions thereof, any production from such acreage which is commingled with production from the insured acreage shall be considered to have been produced on the insured acreage or the insurance with respect to such unit(s) under the contract may be voided by the Corporation and the premium forfeited by the insured.

16. *Payment of indemnity.* (a) Indemnities shall be paid only by check. The amount of indemnity for which the Corporation may be liable will be payable within thirty days after satisfactory proof of loss is approved by the Corporation, but if payment is delayed for any reason, the Corporation shall not be liable for interest or damages on account of such delay.

(b) Indemnities shall be subject to all provisions of the contract, including the right of the Corporation to deduct from any indemnity the unpaid amount of any earned premium plus any interest due or any other obligation of the insured to the Corporation.

(c) Any indemnity payable under a contract shall be paid to the insured or such other person as may be entitled to the benefits under the provisions of the contract, notwithstanding any attachment, garnishment, receivership, trustee process, judgment, levy, equity, or bankruptcy, directed against the insured or such other person, or against any indemnity alleged to be due to such person; nor shall the Corporation or any officer, employee, or representative thereof, be a proper party to any suit or action with reference to such indemnity, nor be bound by any judgment, order, or decree rendered or entered therein. Nothing herein contained shall excuse any person entitled to the benefits of the contract from full compliance with, or performance of, any lawful judgment, order, or decree with respect to the disposition of any sums paid thereunder as an indemnity.

(d) If a check issued in payment of an indemnity is returned undeliverable at the last known address of the payee, and if such payee or other person entitled to the indemnity makes no claim for payment within two years after the issuance of the check, such claim shall not thereafter be payable, except with the consent of the Corporation.

17. *Payment to transferee.* (a) If the insured transfers all or a part of his insured interest in a bean crop before the beginning of harvest or the time of loss, whichever occurs first, he shall immediately notify the Corporation thereof in writing at the county office. The transferee under such a transfer will be entitled to the benefits of the contract with respect to the interest so transferred, provided the transferee immediately following the transfer makes suitable arrangements with the Corporation for the payment of any premium with respect to the interest so transferred, whereupon the transferee and the transferor shall be jointly and severally liable for the amount of such premium. Any transfer shall be subject to any collateral assignment made by the original insured in accordance with section 21. However, the Corporation shall not be liable for a greater amount of indemnity in connection with the insured crop than would have been paid if the transfer had not taken place.

(b) An involuntary transfer of an insured interest in a bean crop solely because of the existence of a debt, lien, mortgage, garnishment, levy, execution, bankruptcy, or other process shall not entitle any holder of any such interest to any benefits under the contract.

(c) Any deduction to be made from an indemnity payable to the transferee shall not exceed the annual premium plus any interest due on the land involved in the transfer plus the unpaid amount of any other obligation of the transferee to the Corporation.

(d) If, as a result of any transfer, diverse interests appear with respect to any insurance unit, any indemnity payable with respect to such unit may be paid jointly to all persons having the insured interest in the bean crop at the time harvest is commenced or the time of loss, whichever occurs first, or to one of such persons on behalf of all such persons, and payment in any such manner shall constitute a complete discharge of the Corporation's liability with respect to such unit under the contract.

18. *Determination of person to whom indemnity shall be paid.* In any case where the insured has transferred his interest in all or a part of the bean crop on any insurance unit, or has ceased to act as a fiduciary, or has died, has been judicially declared incompetent or has disappeared, payment in accordance with the provisions of the contract shall be made only after the facts have been established to the satisfaction of the Corporation. The determination of the Corporation as to the existence or nonexistence of a circumstance in the event of which payment may be made and of the person(s) to whom such payment will be made shall be final and conclusive. Payment of an indemnity under this section shall constitute a complete discharge of the Corporation's obligation with respect to the loss for which such indemnity is paid and settled and shall be a bar to recovery by any other person.

19. *Other insurance.* (a) If the insured has or acquires any other insurance against substantially all the risks that are insured against by the Corporation under the contract, regardless of whether such other insurance is valid or collectible, the liability of the Corporation shall not be greater than its share would be if the amount of its obligations were divided equally between the Corporation and such other insurer.

(b) In any case where an indemnity is paid to the insured by another Government agency because of damage to the bean crop, the Corporation reserves the right to determine its liability under the contract taking into consideration the amount paid by such other agency.

20. *Subrogation.* The Corporation may require from the insured an assignment of all rights of recovery against any person(s) for loss or damage to the extent that payment therefor is made by the Corporation, and the insured shall execute all papers required and shall do everything that may be necessary to secure such rights.

21. *Collateral assignment.* The original insured may assign his right to an indemnity under the contract by executing a form entitled "Collateral Assignment" and upon approval thereof by the Corporation the interest of the assignee will be recognized, including the right of the assignee to submit a "Statement in Proof of Loss" if the insured

refuses to submit or disappears without having submitted such statement.

22. *Records and access to farm.* For the purpose of enabling the Corporation to determine any loss that may have occurred under the contract, the insured shall keep, or cause to be kept, for one year after the time of loss, records of the harvesting, storage, sale or other disposition, of all beans produced on each insurance unit covered by the contract, and on any uninsured acreage in the county in which he has an interest and such records shall be made available for examination by the Corporation. As often as may be reasonably required, any person(s) designated by the Corporation shall have access to the farm(s) for purposes related to the contract.

23. *Voidance of contract.* The contract may be voided and the premium forfeited to the Corporation without the Corporation's waiving any right or remedy, including its right to collect the amount of the premium note executed by the insured, whether before or after maturity, if (a) at any time the insured has concealed any material fact or made any false or fraudulent statements relating to the contract, the subject thereof, or his interest in the bean crop covered thereby, or (b) the insured shall neglect to use all reasonable means to produce, care for or save the bean crop covered thereby, whether before or after damage has occurred, or (c) the insured fails to give any notice, or otherwise fails to comply with the terms of the contract, including the premium note, at the time and in the manner prescribed.

24. *Modification of contract.* No notice to any representative of the Corporation or the knowledge possessed by any such representative or by any other person shall be held to effect a waiver of or change in any part of the contract, or to estop the Corporation from asserting any right or power under such contract, nor shall the terms of such contract be waived or changed except as authorized in writing by a duly authorized officer or representative of the Corporation; nor shall any provision or condition of the contract or any forfeiture be held to be waived by any delay or omission by the Corporation in exercising its rights and powers thereunder or by any requirement, act, or proceeding on the part of the Corporation or of its representatives relating to appraisal or to any examination herein provided for.

25. *General.* (a) In addition to the terms and provisions in the application and policy, the Dry Edible Bean Crop Insurance Regulations for Annual Contracts covering the 1949 Crop Year shall govern with respect to (1) minimum participation requirement, (2) closing date for filing applications for insurance, (3) death, incompetence, or disappearance of the insured, (4) fiduciaries, (5) prohibition against assignment or transfer of claims for refunds, (6) creditors, and (7) rounding of fractions.

(b) Copies of the regulations and forms referred to in this policy are available at the county office.

26. *Meaning of terms.* For the purpose of the Bean Crop Insurance Program, the term:

(a) "Cleaned beans," as applied to the general appearance of beans, means that the beans are practically free from such small, shriveled, undeveloped, split and broken beans and foreign material as can be removed readily in the ordinary processes of milling or screening.

(b) "Contract" means the accepted application for insurance and this policy.

(c) "County Actuarial Table" means the form and related material (including the crop insurance maps) approved by the Corporation for listing the coverages per acre and the premium rates per acre applicable in the county, and shall be on file in the county office.

(d) "County office" means the office of the county Agricultural Conservation Association in the county or other office specified by the Corporation.

(e) "Crop year" means the period within which the bean crop is planted and normally harvested, and shall be designated by reference to the calendar year in which the crop is normally harvested.

(f) "Cwt." means 100 pounds.

(g) "Net weight" means the weight of cleaned beans minus the weight equivalent of the moisture content in excess of 18 percent determined in accordance with the standards established by the United States Department of Agriculture.

(h) "New ground acreage" means any acreage which has not been planted to a crop in any one of the previous three crop years, except that acreage in tame hay or rotation pasture during the previous crop year shall not be considered new ground acreage.

(i) "Person" means an individual, partnership, association, corporation, estate or trust, or other business enterprise or other legal entity and, wherever applicable, a state, a political subdivision of a state, or any agency thereof.

(j) "Pick" means the defects consisting of splits, damaged beans, contrasting classes and foreign material included in net weight beans, and where used shall be expressed in terms of percent of net weight beans.

(k) "Share tenant" means a person who rents land from another person for a share of the crop(s) or proceeds therefrom produced on such land.

28. *Amount of annual premium.* The premium rate per acre will be the applicable number of dollars established by the Corporation for the coverage and rate area in which the insured acreage is located and will be shown by practices on the county actuarial table on file in the county office. The premium for each insurance unit under the contract will be based upon (a) the insured acreage, (b) the applicable premium rate(s), and (c) the insured interest in the bean crop at the itme of planting. The premium for the contract shall be the total of the premiums computed for the insured for all insurance units covered by the contract. The premium with respect to any acreage shall be regarded as earned when the bean crop on such acreage is planted.

29. *Manner of payment of premium.* (a) The applicant executes a premium note by signing the application for bean crop insurance. This note represents a promise to pay to the Corporation, on or before August 31, 1949, the premium for all insurance units covered by the contract.

(b) A discount of five percent shall be allowed on any premium which is paid in full on or before the closing date.

(c) Any premium note not paid at maturity shall bear interest computed not on a per annum basis but as follows: Three percent on the principal amount not paid on or before December 31, 1949, and an additional three percent on the principal amount owing at the end of each six-month period thereafter.

(d) Payment on any premium shall be made by means of cash or by check, money order, postal note, or bank draft payable to the order of the Treasurer of the United States. All checks and drafts will be accepted subject to collection and payments tendered shall not be regarded as paid unless collection is made.

(e) Any unpaid amount of any premium plus any interest due may be deducted (either before or after the date of maturity) from any indemnity payable by the Corporation, from the proceeds of any commodity loan to the insured, and from any payment made to the insured under the Soil Conservation and Domestic Allotment Act, as amended, or any other act of Congress or program administered by the United States Department of Agriculture. There shall be no refund of any premium overpayment of less than $1.00 unless written request for such refund is received by the Corporation within one year after the payment thereof.

30. *Irrigated acreage.* (a) In addition to the provisions of section 4, where insurance is written on an irrigated basis the following provisions shall apply:

(1) The acreage of beans which shall be insured on an irrigated basis in any year shall not exceed that acreage which can be irrigated properly with facilities available and with a supply of irrigation water which could reasonably be expected, taking into consideration the amount of water required to properly irrigate the acreage of all irrigated crops on the farm, except that in areas where a part of the beans is normally irrigated and a part is not normally irrigated, the acreage of beans which shall be insured on an irrigated basis in any year shall not exceed that acreage which could be irrigated in a normal year with the facilities available.

(2) Insurance shall not attach with respect to acreage planted to beans the first year after being leveled.

(3) In Torrance County, New Mexico, insurance shall not attach with respect to acreage planted to beans the first year such acreage is irrigated.

(b) In addition to the causes of loss insured against as shown on the first page of this policy the contract shall cover loss due to failure of the water supply from natural causes that could not be foreseen and prevented by the insured, including (1) lowering of the water level in pump wells adequate at the beginning of the growing season to the extent that either deepening the well or drilling a new well would be necessary to obtain an adequate supply of water, (2) failure of public power used for pumping or failure of an irrigation district or water company to deliver water where such failure is not within the control of the insured, and (3) the collapse of casing in wells.

(c) In addition to the causes of loss not insured against as shown in Section 9, the contract shall not cover loss caused by (1) failure to provide adequate casing or properly to adjust the pumping equipment in the event of a lowering of the water level in pump wells when such adjustment can be made without deepening the well, (2) failure properly to apply irrigation water to beans in proportion to the need of the crop and the amount of water available for all irrigated crops, and (3) shortage of irrigation water on any farm where the Corporation determines that the total acreage of all irrigated crops on the farm is in excess of that which could be irrigated properly with the facilities available and with the supply of irrigation water which could be reasonably expected.

NOTE: The record keeping requirements of these regulations have been approved by, and subsequent reporting requirements will be subject to the approval of the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Adopted by the Board of Directors on January 24, 1949.

[SEAL] E. D. BERKAW,
Secretary,
Federal Crop Insurance Corporation.

Approved: January 26, 1949.

CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 49-744; Filed, Jan. 31, 1949; 8:47 a. m.]

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders), Department of Agriculture

Part 951—Tokay Grapes Grown in California

Order Amending Order, as Amended, Regulating Handling

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

(a) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 1946 ed. 601 et seq.; 61 Stat. 208, 707), and the rules of practice and procedure effective thereunder (7 CFR and Supps., 900.1 et seq.), a public hearing was held at Lodi, California, beginning on April 15, 1948, upon proposed amendments to Marketing Agreement No. 93, as amended, and Order No. 51, as amended (7 CFR, Cum. Supp., 951.1 et seq.), regulating the handling of Tokay grapes grown in the State of California. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

(2) The said order, as amended and as hereby further amended, regulates the handling of Tokay grapes grown in the State of California in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activity specified in, the marketing agreement and the proposed amendments thereto upon which hearings have been held; and

(3) There are no differences in the production and marketing of said grapes grown in the production area covered by the said order, as amended and as hereby further amended, that make necessary different terms and provisions applicable to different parts of said area.

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

(1) The agreement amending the marketing agreement, as amended, regulating the handling of Tokay grapes grown in the State of California, upon which the aforesaid public hearing was held, has been executed by handlers (excluding cooperative associations of producers who were not engaged in processing, distributing, or shipping the fruit covered by this order) who, during the marketing season April 1, 1947, to March 31, 1948, both inclusive, handled not less than 50 percent of the volume of Tokay grapes covered by said order, as amended and hereby further amended;

(2) The aforesaid agreement amending the marketing agreement, as amended, has been executed by handlers who were signatory parties to said marketing agreement, as amended, and who, during the aforesaid marketing season, handled not less than 50 percent of the volume of Tokay grapes, grown in the State of California, handled by all handlers signatory to said marketing agreement, as amended, during said marketing season;

(3) The issuance of this order, amending the aforesaid order as amended, is favored and 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 (April 1, 1947 to March 31, 1948, both inclusive), were engaged, within the State of California, in the production for market of Tokay grapes; and

(4) The issuance of this order, amending the aforesaid order as amended, is favored and approved by producers who participated in the aforesaid referendum on the question of its approval and who, during the aforesaid determined representative period, produced for market, within the State of California, at least two-thirds of the volume of Tokay grapes, produced during said period by all producers who participated in said referendum.

It is, therefore, ordered, That, on and after the effective date hereof, the handling of Tokay grapes grown in the State of California shall be in conformity to, and in compliance with, the terms and conditions of the aforesaid order, as amended and as hereby further amended; and such order is hereby further amended as follows:

1. Insert the following immediately preceding the period in § 951.1 (b): "and further amended by Public Law 305, 80th Cong., approved August 1, 1947".

2. Delete § 951.1 (g) and insert, in lieu thereof, the following:

(g) "Handle" is synonymous with "ship" and means to sell, load in a conveyance for transportation, offer for transportation, transport, deliver to a refrigerated storage warehouse in the State of California, or, in any other way to place grapes in the current of commerce between the State of California and any point outside thereof, or so as directly to burden, obstruct, or affect such commerce.

3. Delete § 951.1 (k) (1) and insert, in lieu thereof, the following:

(1) "Lodi District" means the County of San Joaquin, and shall be divided into the following Election Districts: (i) "Acampo Election District" means the school district of Houston; (ii) "Woodbridge Election District" means the school district of Woods, and that portion of the Galt Joint Union School District situated in San Joaquin County; (iii) "Lafayette Election District" means the school districts of Lafayette, Henderson, Turner, Ray, Terminous and New Hope; (iv) "Victor Election District" means the school districts of Bruella, Victor, Lockeford, Oak View and Clements; (v) "Alpine Election District" means the school districts of Alpine and Lodi; (vi) "Live Oak Election District" means all of the school districts in the Lodi District, other than those included in the Acampo, Woodbridge, Lafayette, Victor, and Alpine Election Districts.

4. Delete the third sentence from § 951.2 (a).

5. Insert the following immediately preceding the semicolon in § 951.2 (m) (3): ", and to engage in such research and service activities relating to the handling of grapes as may be approved, from time to time, by the Secretary".

6. In §§ 951.2 (m) (13), 951.2 (m) (15), and 951.2 (p) (5), delete the terms "§§ 951.4 and 951.5" and insert, in lieu thereof, the words "the provisions."

7. Delete the first sentence in § 951.3 (a) and insert, in lieu thereof, the following: "The Industry Committee is authorized to incur such expenses as the Secretary may find are reasonable and are likely to be incurred by the Industry Committee during the then current season for its maintenance and functioning and for such research and service activities relating to the handling of grapes as the Secretary may determine to be appropriate."

8. In the first sentence in § 951.3 (b) delete the words after "will be" and insert, in lieu thereof, the following: "incurred, as aforesaid, by the committee during such season."

9. In § 951.4 (b) delete subparagraph (2) and renumber subparagraph "(3)" as "(2)."

10. Delete the provisions of subparagraphs (1) through (5) of § 951.4 (c) *Exemptions,* renumber subparagraph (6) of § 951.4 (c) to read "(5)," and insert the following:

(1) The Industry Committee shall, subject to the approval of the Secretary, adopt the procedural rules to govern the issuance of exemption certificates.

(2) In the event the Secretary issues a regulation pursuant to this section, the Industry Committee shall determine for each district the percentage which the grapes produced in each such district, and permitted to be shipped under such regulation, is of the quantity of grapes produced in the respective district which would be shipped in the absence of such regulation. An exemption certificate shall thereafter be issued by the Industry Committee to any grower who furnishes proof, satisfactory to such committee, that by reason of conditions beyond his control he will be prevented, because of the regulation issued, from shipping or having shipped a percentage of his crop of grapes equal to the percentage determined as aforesaid of all grapes permitted to be shipped from his district. The certificate shall permit such grower to ship, or have shipped, a percentage of his crop of grapes equal to the percentage determined as aforesaid.

(3) In the event the Industry Committee determines that, by reason of general crop failure or other general unusual conditions within a particular district, it is not feasible or would not be equitable to issue exemption certificates to growers within such district on the basis set forth in subparagraph (2) of this paragraph, it shall issue such certificates on the basis

of the average of the percentages, as determined in subparagraph (2) of this paragraph, of the crops of grapes permitted to be shipped from both districts. An exemption certificate shall thereafter be issued by the Industry Committee to any grower who furnishes proof, satisfactory to such committee, that by reason of conditions beyond his control he will be prevented, because of the regulation issued, from shipping or having shipped a percentage of his crop of grapes equal to the average of the percentages determined as aforesaid. The certificate shall permit such grower to ship, or have shipped, a percentage of his crop of grapes equal to the average of the percentages determined as aforesaid.

(4) If any grower is dissatisfied with the action of the Industry Committee taken with respect to his application for an exemption certificate, such grower may appeal to the Secretary: *Provided*, That such appeal shall be made promptly. The Secretary may, upon an appeal made as aforesaid, modify or reverse the action of the committee. The authority of the Secretary to supervise and control the issuance of exemption certificates is unlimited and plenary; and any determination by the Secretary with respect to an exemption certificate shall be final and conclusive.

11. Renumber §§ 951.5, 951.6, and 951.7 through 951.18 to read, respectively, §§ 951.7, 951.8, and §§ 951.10 through 951.21 in proper numerical sequence.

12. In § 951.4 (d) delete the words "this section" after the words "pursuant to," and insert, in lieu thereof, the terms "§§ 951.4 and 951.5." Redesignate paragraph (d) of § 951.4 to read § 951.6.

13. Add a new § 951.5, as follows:

§ 951.5 *Minimum standards of quality and maturity*—(a) *Recommendation.* Whenever the Industry Committee deems it advisable to establish and maintain in effect during any period minimum standards of quality or maturity, or both, governing the shipment of grapes pursuant to this section, it shall so recommend to the Secretary. Each such recommendation of the committee shall be in terms of (1) freedom of the grapes from material impairment of shipping quality; (2) freedom of the grapes from material impairment of edible quality; (3) freedom of the grapes from serious damage to appearance; (4) minimum maturity requirements; or (5) any combination of the foregoing. With each such recommendation, the committee shall submit to the Secretary the information and data on which such recommendation is predicated; and the committee shall also submit to the Secretary such other information as he may request. The committee shall give prompt notice to handlers and growers of any such recommendation.

(b) *Establishment.* Whenever the Secretary finds, from the recommendation and information submitted by the Industry Committee, or from other available information, that to establish minimum standards of quality or maturity, or both, for grapes and to limit the shipment of grapes during any period to those meeting the minimum standards would be in the public interest and would tend to effectuate the declared policy of the act, he shall establish such standards, designate such period, and so limit the shipment of such grapes. The Secretary shall immediately notify the Industry Committee of the issuance of such regulation, and said committee shall give such notice thereof as may be reasonably calculated to bring such regulation to the attention of the handlers and growers.

14. Add a new § 951.9 as follows:

§ 951.9 *Modification, suspension, or termination.* Whenever the Industry Committee deems it advisable to recommend to the Secretary the modification, suspension, or termination of any or all of the regulations established pursuant hereto, it shall so recommend to the Secretary. If the Secretary finds upon the basis of such recommendation or from other available information that to modify such regulations will tend to effectuate the declared policy of the act, he shall so modify such regulations. If the Secretary finds, upon the basis of such recommendation or upon the basis of other available information that any such regulations obstruct or do not tend to effectuate the declared policy of the act, he shall suspend or terminate such regulations. The Secretary shall immediately notify the Industry Committee, and such committee shall promptly give adequate notice to handlers and growers, of the issuance of each order modifying, suspending, or terminating any such regulations. In like manner and upon the same basis the Secretary may terminate any such modification or suspension.

(48 Stat. 31, as amended, 61 Stat. 208, 707; 7 U. S. C. and Sup. 601 et seq.)

Issued at Washington, D. C., this 26th day of January 1949, to be effective on and after 12:01 a. m., P. s. t., March 1, 1949.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 49-749; Filed, Jan. 31, 1949; 8:49 a. m.]

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Bureau of Animal Industry, Department of Agriculture

Subchapter A—Meat Inspection Regulations

PART 7—FACILITIES FOR INSPECTION

PAYMENTS FOR OVERTIME WORK OF MEAT INSPECTION EMPLOYEES

Pursuant to the authority vested in the Secretary of Agriculture by the act of July 24, 1919 (7 U. S. C. 394), the act of March 4, 1907, as amended and extended (21 U. S. C. 71-91, 96), section 306 of the act of June 17, 1930 (19 U. S. C. 1306), and the act relating to the Meat Inspection Service of the Department of Agriculture, approved June 5, 1948 (Public Law 610, 80th Cong.), § 7.4 of the Meat Inspection Regulations of the Department of Agriculture, as amended (13 F. R. 4010), is hereby further amended to read as follows:

§ 7.4 *Overtime work of meat inspection employees.* The management of an official establishment desiring to work under conditions which will require the services of an employee of the Division on any Saturday, Sunday, or holiday, or for more than 8 hours on any day, including Monday through Friday, shall, sufficiently in advance of the period of overtime, request the inspector in charge or his assistant to furnish inspection service during such overtime period, and shall pay the Secretary of Agriculture therefor $2.40 per man-hour for each hour of inspection service so furnished. It will be administratively determined from time to time which days constitute holidays.

The purpose of this amendment is to establish a uniform hourly rate of payment for all overtime meat inspection services furnished under the Meat Inspection Act and related acts, and to reduce substantially the total amount paid for such services by the establishments requesting them, while at the same time insuring full reimbursement to the Government for any sums paid out on account of such services. Determination of the cost of the overtime inspection provided for by § 7.4 depends entirely upon facts within the knowledge of the Department of Agriculture. A recent survey has developed that such overtime inspection may be furnished at a reduced cost during the foreseeable future. It is to the benefit of the packers subject to the Meat Inspection Act and Regulations, as well as of the public generally, that this amendment be made effective at the earliest practicable time. Accordingly, pursuant to the provisions of section 4 of the Administrative Procedure Act (60 Stat. 238), it is found, upon good cause, that notice and public procedure on this amendment are impracticable, unnecessary, and contrary to the public interest and good cause is found for making this amendment effective less than 30 days after publication.

This amendment shall become effective January 23, 1949.

(41 Stat. 241, 34 Stat. 1260, as amended, sec. 306, 46 Stat. 689, Pub. Law 610, 80th Cong.; 7 U. S. C. 394, 21 U. S. C. 71-91, 96, 19 U. S. C. 1306)

Done at Washington, D. C., this 26th day of January 1949. Witness my hand and the seal of the Department of Agriculture.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 49-747; Filed, Jan. 31, 1949; 8:48 a. m.]

TITLE 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of Foreign and Domestic Commerce, Department of Commerce

[3d Gen. Rev. of Export Regs., Amdt. P. L. 17]

PART 399—POSITIVE LIST OF COMMODITIES AND RELATED MATTERS

MACHINES CONTAINING A TOOL OR DEVICE INCORPORATING DIAMONDS

Section 399.2 *Appendix B—Interpretations; Positive List of Commodities* is

amended by adding a new paragraph to read as follows:

(d) *Interpretation 4; export of machines containing a tool or device incorporating diamonds.* (1) Machines containing as an integral part thereof a tool or device incorporating diamonds are included on the Positive List, and a validated license is required for export of such a machine to any foreign destination.

(2) This interpretation in no way changes the special provisions for diamonds set forth in § 373.13 of this chapter.

This interpretation is issued as of January 7, 1949.

(Sec. 6, 54 Stat. 714, 55 Stat. 206, 56 Stat. 463, 58 Stat. 671, 59 Stat. 270, 60 Stat. 215, 61 Stat. 214, 61 Stat. 321; Pub. Law 395, 80th Cong.; 50 U. S. C. App. and Sup. 701, 702; E. O. 9630, Sept. 27, 1945, 10 F. R. 12245; E. O. 9919, Jan. 3, 1948, 13 F. R. 59)

Dated: January 26, 1949.

FRANCIS MCINTYRE,
Assistant Director,
Office of International Trade.

[F. R. Doc. 49-738; Filed, Jan. 31, 1949; 8:46 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 9165]

PART 1—PRACTICE AND PROCEDURE

FINANCIAL REPORTS, BROADCAST LICENSEES AND PERMITTEES

In the matter of adoption of proposed form for obtaining summary estimates of broadcast station revenues and expenses during the preceding year. Amendment of § 1.341 of Part 1 of the Commission's rules and regulations.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 26th day of January 1949;

The Commission having under consideration the matter of the proposed revision of the schedule on which stations estimate their broadcast revenues during the preceding year in order to provide the Commission and the industry with a quick overall measure of the industry's financial experience during the preceding year; and

It appearing, that the rapid upward movement of broadcast expenses during recent years requires that information be obtained on "Total Broadcast Expenses" in order to provide a more accurate appraisal of the broadcast industry's financial experience; and

It further appearing, that on December 23, 1948, general notice of proposed rule making with respect thereto was published in accordance with section 4 of the Administrative Procedure Act; and

It further appearing, that the period in which interested parties were afforded an opportunity to submit comments expired January 17, 1949, and during that period the Commission received statements from Westinghouse Radio Stations, Inc., from the American Broadcasting Company, Inc., and a statement filed on behalf of some seventy-five licensees and permittees; and

It further appearing, that the comments made by these parties with respect to (1) the date of filing, (2) the confidentiality of information filed, and (3) an indication on the form that the data supplied are estimated figures, have been accepted and incorporated in the present order; and

It further appearing, that authority for the proposed revision is contained in sections 303 (r) and 308 (b) of the Communications Act of 1934, as amended;

It is ordered, That the attached Form 324A, requesting annual information from broadcast stations on their estimated "Total Broadcast Revenues", and estimated "Total Broadcast Expenses" be adopted; and

It is further ordered, That § 1.341 of Part 1 of the Commission's rules and regulations be amended to read as follows:

§ 1.341 *Financial reports, broadcast licensees and permittees.* (a) Each licensee of a broadcast station (standard, FM, television, and international) and each permittee of a broadcast station engaged in interim operation shall file with the Commission on or before April 1 of each year on Form 324, together with supporting schedules, a balance sheet showing its financial condition as of December 31 of the preceding calendar year and an income statement for said calendar year.

(b) Each licensee of a broadcast station (standard, FM, television, and international) and each permittee of a broadcast station engaged in interim operation shall file with the Commission on or before February 1 of each year on Form 324A an estimate of the station's total broadcast revenues and total broadcast expenses for the preceding calendar year.

Form 324A

Budget Bureau No. 52-R117.2
Approval Expires May 31, 1949

SUMMARY ESTIMATES OF STATION BROADCAST REVENUES AND EXPENSES, 1948

Call letters_____
Check appropriate box below:
AM ☐ Joint AM and FM ☐
FM ☐ Television ☐
1. Estimated total broadcast revenues [1] _____ _____
2. Estimated total broadcast expenses [2] _____ _____

Exact name of respondent_____
Address_____

[1] "Total Broadcast Revenues" are defined to include total sale of station time less commissions plus incidental broadcast revenues, as in Annual Financial Report No. 324, Schedule 6, line 23.

[2] Exclusive of Federal income tax.

It is further ordered, That broadcast stations shall file the information requested in the above Form 324A for the year 1948 by March 1, 1949.

(Sec. 6 (b), 50 Stat. 191; 47 U. S. C. 303 (r). Applies sec. 308 (b), 48 Stat. 1084; 47 U. S. C. 308 (b))

Adopted: January 26, 1949.

Released: January 27, 1949.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 49-737; Filed, Jan. 31, 1949; 9:00 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Bureau of Internal Revenue

[26 CFR, Part 186]

GAUGING MANUAL

NOTICE OF PROPOSED RULE MAKING

A notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto, which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Washington 25, D. C., within 30 days from the date of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority of sections 2808 and 3176 of the Internal Revenue Code (26 U. S. C., secs. 2808 and 3176).

[SEAL] GEO. J. SCHOENEMAN,
Commissioner of Internal Revenue.

1. Sections 186.48, 186.62, 186.75(c), 186.80, 186.82, and 186.153 of the Gauging Manual (26 CFR, Part 186) are amended, and § 186.61 of such manual is revoked.

2. These amendments, in effect, require the registry number of the distillery, the state in which the distillery is located, and the serial number of the package to be burned or cut on the Government head of each wooden package, instead of stenciled or otherwise imprinted, in order to insure better identification. They also provide for the discontinuance of stenciling on the Government head of each package the word "Inspected," and the name and title of the storekeeper-gauger.

§ 186.153 *Marks and brands on wooden packages of distilled spirits.* The marks and brands (except the registry number, the state, and serial number of the package) required to be placed on wooden packages of distilled spirits by §§ 186.20, 186.48, 186.56, 186.57, 186.58, 186.60, 186.75, 186.79, 186.82, and 186.145 shall, notwithstanding the particular methods specified therein, be plainly and durably burned, cut, imprinted, or stenciled on such packages. The registry number of the distillery, the state in which the distillery is located, and the serial number of the package shall be plainly and durably burned or cut on such packages. The registry number and the state may be combined and abbreviated, as "Calif–708."

3. Sections 186.48, 186.62, 186.75 (c), 186.80, and 186.82 are modified by eliminating from the illustrations therein the word "Inspected," and name and title of the storekeeper-gauger.

4. This Treasury decision shall be effective on the 90th day after its publication in the FEDERAL REGISTER.

5. This Treasury decision is issued under the authority contained in sections 2808 and 3176, Internal Revenue Code (26 U. S. C. 2808 and 3176).

[F. R. Doc. 49–718; Filed, Jan. 31, 1949; 8:46 a. m.]

DEPARTMENT OF AGRICULTURE

Bureau of Animal Industry

[9 CFR, Part 51]

PREVENTION OF TUBERCULOSIS, PARATUBERCULOSIS AND BANG'S DISEASE OF CATTLE IN COOPERATION WITH STATES

NOTICE OF PROPOSED AMENDMENT

On January 1, 1949, there was published in the FEDERAL REGISTER (14 F. R. 1) a notice of a proposed amendment of § 51.8 (b) of the regulations for the prevention of tuberculosis, paratuberculosis and Bang's disease of cattle in cooperation with the States (9 CFR Cum. Supp. 51.8 (b)) pursuant to sections 3 and 11 of the act of Congress approved May 29, 1884, as amended (21 U. S. C. 114 and 114a), section 2 of the act of Congress approved February 2, 1903, as amended (21 U. S. C. 111), and the item in the Department of Agriculture Appropriation Act, 1949, for eradicating tuberculosis and Bang's disease (62 Stat. 507).

Some misunderstanding has arisen concerning the objectives of the proposed amendment. Further notice is therefore hereby given that the purpose of the amendment will be to permit payment of claims, under the regulations for the prevention of animal diseases in cooperation with the States (9 CFR Cum. Supp., Part 51), for cattle reacting to tests for Bang's disease when the determination of the existence of this disease is based upon blood samples taken, or laboratory tests made, by non-veterinary technicians under the supervision of veterinarians of the Bureau of Animal Industry, United States Department of Agriculture, or of cooperating State, Territorial, county, or municipal veterinary inspectors, as well as when the determination of the existence of such disease is based upon blood samples taken, or laboratory tests made, by such veterinarians or veterinary inspectors, or accredited veterinarians. No change will be made by the amendment in the requirements of the regulations with respect to payment of claims for cattle reacting to tests for tuberculosis or paratuberculosis.

To accomplish the aforesaid purpose, it is proposed, pursuant to the abovementioned authority, to amend § 51.8 (b) of said regulations (9 CFR Cum. Supp. 51.8 (b)) to read as follows:

(b) In the case of either tuberculosis or paratuberculosis, if the existence of the disease in the cattle was not determined as the result of a tuberculin or johnin test applied by a Bureau veterinarian, a cooperating State, Territorial, county, or municipal veterinary inspector, or an accredited veterinarian; or in the case of Bang's disease, if the existence of the disease in the cattle was not determined as the result of an agglutination test applied by such a veterinarian or veterinary inspector, or by non-veterinary technicians under the supervision of a Bureau veterinarian, or a cooperating State, Territorial, county, or municipal veterinary inspector.

Any person who wishes to submit written data, views, or arguments concerning the proposed amendment may do so by filing them with the Chief of the Bureau of Animal Industry, Agricultural Research Administration, United States Department of Agriculture, Washington 25, D. C., within 15 days after the date of publication of this notice in the FEDERAL REGISTER.

Done at Washington, D. C., this 26th day of January 1949. Witness my hand and the seal of the United States Department of Agriculture.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 49–746; Filed, Jan. 31, 1949; 8:48 a. m.]

[9 CFR, Part 92]

INSPECTION AND QUARANTINE OF LIVESTOCK AND OTHER ANIMALS OFFERED FOR IMPORTATION (EXCEPT FROM MEXICO)

NOTICE OF PROPOSED AMENDMENT

Notice is hereby given in accordance with section 4 (a) of the Administrative Procedure Act (60 Stat. 237) that the Secretary of Agriculture, pursuant to the authority vested in him by sections 6, 7, 8, and 10 of the act of Congress approved August 30, 1890, as amended (21 U. S. C. 1946 ed. 102–105), and by section 2 of the act of Congress approved February 2, 1903, as amended (21 U. S. C. 1946 ed. 111), proposes to amend § 92.20 of the regulations governing the inspection and quarantine of livestock and other animals offered for importation from countries other than Mexico (9 CFR, 1944 Supp., Part 92) to read as follows:

§ 92.20 *Cattle from Canada—(a) Health certificates.* Cattle offered for importation from Canada shall be accompanied by an official veterinarian's certificate showing that he has inspected the said cattle and found them free from any evidence of communicable disease and that, as far as he has been able to determine, they have not been exposed to any such disease during the preceding 60 days.

(b) *Tuberculin-test certificates.* Importations of cattle from Canada, for purposes other than slaughter as provided in § 92.23, shall be in compliance with the following conditions and requirements:

(1) Cattle from Canadian-listed, tuberculosis-free accredited herds shall be accompanied by a certificate issued or endorsed by a salaried veterinarian of the Canadian Government showing them to be from such herds and that said herds have been tuberculin tested within one year of the date of importation. The date of such tuberculin test shall be shown on the certificate.

(2) Cattle from herds in accredited areas in Canada, other than accredited herds, shall be accompanied by a certificate issued or endorsed by a salaried veterinarian of the Canadian Government showing them to be from herds in such areas and that the animals offered for entry have been tuberculin tested with negative results within 30 days preceding their offer for entry. However, cattle from herds in such areas—other than range herds—in which one or more reactors to the tuberculin test have been disclosed shall not be imported until the said herds have reached full tuberculosis-free status under Canadian regulations.

(3) Cattle from herds in restricted areas in Canada—other than range stock and cattle from accredited herds—shall be accompanied by a certificate issued or endorsed by a salaried veterinarian of the Canadian Government showing (i) that they have been tuberculin tested with negative results within 30 days preceding their offer for entry, (ii) that all cattle in the herd or herds from which the animals proceed have been tuberculin tested with negative results not more than 12 months nor less than 60 days before the date of the offer for entry, and (iii) that the animals presented for entry, excepting only the natural increase in the herd, were included in the herd or herds of origin at the time of said herd tests. However, cattle from herds in such areas—other than range herds—in which one or more reactors to the tuberculin test have been disclosed shall not be imported until the said herds have reached full tuberculosis-free status under Canadian regulations.

(4) Range cattle of the beef types shall be accompanied by a certificate issued or endorsed by a salaried veterinarian of the Canadian Government showing that they have been tuberculin tested with negative results within 30 days preceding their offer for entry.

(5) No cattle other than range cattle or those from accredited herds shall be imported from areas in Canada that are neither restricted nor accredited under Canadian regulations, except for slaughter as provided in § 92.23.

(c) *Brucellosis-test certificates.* Cattle six months old or more offered for im-

portation from Canada—except steers, spayed heifers, and all cattle for immediate slaughter—shall be accompanied by a certificate issued or endorsed by a salaried veterinarian of the Canadian Government showing them to have been tested for brucellosis (Bang's disease) with negative results within 30 days preceding their offer for entry. However, cattle from Canadian brucellosis-free listed herds need not be so tested if it is shown on the accompanying certificates that the animals have been officially vaccinated, in accordance with Canadian regulations, as calves within 16 months prior to their being offered for entry. The certificate accompanying such vaccinated cattle shall show the date of vaccination of each animal and that the herd is listed as brucellosis free.

(d) *Certificates; information required.* The certificates prescribed in the foregoing paragraphs (b) and (c) of this section shall give the dates and places of testing, names of the consignor and consignee, and descriptions of the cattle, including breed, ages, markings, and tattoo and eartag numbers.

(e) *United States cattle returning from expositions in Canada.* Cattle from the United States which have been exhibited at the Royal Agricultural Winter Fair at Toronto or other recognized expositions in Canada and have not been in that country more than 30 days may be returned to the United States within 10 days from the close of such fair or exposition without the certificates specified in paragraphs (b) and (c) of this section, if they are accompanied by copies of the tuberculin- and brucellosis-test certificates accepted by the Canadian authorities for their entry into Canada and if it is shown to the satisfaction of the inspector at the United States port of reentry that they are the identical cattle covered by the said certificates.

Any person who wishes to submit written data, views or arguments concerning the foregoing proposed amendments may do so by filing them with the Chief of the Bureau of Animal Industry, United States Department of Agriculture, Washington 25, D. C., within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

Done at Washington, D. C., this 26th day of January 1949. Witness my hand and the seal of the Department of Agriculture.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 49-745; Filed, Jan. 31, 1949; 8:48 a. m.]

Bureau of Entomology and Plant Quarantine

[7 CFR, Part 319]

SIZE-AGE LIMITATIONS RELATING TO NURSERY STOCK, PLANTS, AND SEEDS

EXTENSION OF TIME FOR FILING COMMENTS REGARDING PROPOSED AMENDMENT

On January 13, 1949 (14 F. R. 184) there was published in the FEDERAL REGISTER a notice of the proposed amendment of the size-age limitations for certain plants, specified in § 319.37-18 of the regulations supplemental to Quarantine No. 37 relating to nursery stock, plants, and seeds (7 CFR 319.37-18; 13 F. R. 4273). Notice is hereby given that the time within which any interested person may file written data, views, or arguments in connection with the proposed amendment has been extended to February 15, 1949, inclusive.

(Sec. 1, 37 Stat. 315, as amended, 7 U. S. C. Sup. I 154; sec. 4, 60 Stat. 237, 5 U. S C. 1003)

Done at Washington, D. C., this 26th day of January 1949. Witness my hand and the seal of the United States Department of Agriculture.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 49-748; Filed, Jan. 31, 1949; 8:48 a. m.]

Production and Marketing Administration

[7 CFR, Ch. IX]

HANDLING OF MILK IN CERTAIN MARKETING AREAS

DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENTS AND TO PROPOSED AMENDMENTS TO ORDERS, AS AMENDED

Pursuant to Public Act No. 10, 73d Congress (May 12, 1933), as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), and the rules of practice and procedure, as amended, governing proceedings to formulate marketing agrements and orders (7 CFR and Supps. 900.1 et seq.; 13 F. R. 8585), a public hearing was held at Washington, D. C., on July 30, 1947, pursuant to notice issued on July 18, 1947, and published in the FEDERAL REGISTER on July 23, 1947 (12 F. R. 4888), with respect to proposed amendments to the tentatively approved marketing agreements, the marketing agreements, as amended, and to the orders, as amended (hereinafter referred to as the "marketing agreements and orders"), regulating the handling of milk in the following marketing areas:

St. Louis, Mo.	Quad Cities.
Greater Boston, Mass.	Louisville, Ky.
Dubuque, Iowa.	Fall River, Mass.
Greater Kansas City.	Sioux City, Iowa.
South Bend-LaPorte County, Ind.	Duluth-Superior.
New York Metropolitan.	Philadelphia, Pa.
Toledo, Ohio.	Cincinnati, Ohio.
Fort Wayne, Ind.	Wichita, Kans.
Lowell-Lawrence Mass.	Suburban Chicago.
Omaha-Council Bluffs.	Clinton, Iowa.
Chicago, Ill.	Dayton-Springfield, Ohio.
New Orleans, La.	Tri-State.
	Minneapolis-St. Paul.
	Columbus, Ohio.
	Cleveland, Ohio.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Assistant Administrator, Production and Marketing Administration, on September 27, 1948, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision in this proceeding. The notice of such recommended decision and of opportunity to file written exceptions thereto was published in the FEDERAL REGISTER on October 1, 1948 (13 F. R. 5682). The only material issues of record are with respect to whether each of the aforesaid marketing agreements and orders should provide:

(1) A termination of any obligation for the payment of money at the expiration of a specified period of time; and

(2) A specified period of time for the retention of books and records required to be made available to the market administrator.

Rulings on exceptions. Exceptions to the recommended decision were filed on behalf of interested parties.

In arriving at the findings and conclusions decided upon in this decision, each of the exceptions was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions decided upon herein are at variance with the exceptions pertaining thereto, such exceptions are overruled.

Exception was taken to the provision for the termination of any obligation of a market administrator to pay money to a handler unless, within a specified period of time, the handler files, pursuant to section 8c (15) (A) of the act, a petition claiming such money. The basis of the exception was the limiting of a handler to the administrative proceeding specified in the act, rather than providing that the life of the claim could be extended by the handler instituting either legal or administrative proceeding. Since the claim being limited is created by administrative regulation under the act, it appears appropriate that the limitation be based on a reasonable condition. The choice of the petition under section 8c (15) (A) of the act, as the condition the fulfillment of which will prevent the termination of the claim, seems a reasonable exercise of administrative discretion, particularly since the statute itself provides the remedy.

A further exception was taken to the provision for the termination of obligations on the basis that the market administrator is not required to act upon a claim of a handler within any specified period of time. It was suggested that this condition might result in a dismissal of a handler's petition in a section 8c (15) (A) proceeding because the proceeding had been initiated before final action by the market administrator upon the claim. The right of a handler under the act to institute a section 8c (15) (A) proceeding is not limited by action or a lack of action by a market administrator upon the handler's claim. Hence, it is not necessary in the amendments herein decided upon to require the market administrator to act upon a claim made upon him by a handler.

Findings and conclusions. On the basis of the evidence presented at such hearing, it is hereby found and concluded:

1. *Termination of obligation.* Each of the aforesaid marketing agreements and orders should contain provisions

terminating any obligation thereunder for the payment of money after the expiration of a specified period of time, with certain exceptions hereinafter indicated.

Marketing agreements and orders contain provisions classifying milk in accordance with the form in which or the purpose for which it is used, and fixing, or providing a method for fixing, minimum prices for each such use classification, which all handlers are required to pay, and the time when payments shall be made, for milk purchased from producers or associations of producers. Such prices are uniform as to all handlers, subject to adjustments for volume, market, and production differentials, grade or quality of the milk purchased, or the locations at which the milk is delivered. Some orders provide for the payment to all producers and associations of producers delivering milk to the same handler of uniform prices for all milk delivered by them. This method of paying producers is commonly called the "individual-handler pool." Other orders provide for the payment to all producers and associations of producers delivering milk to all handlers in the respective marketing area of uniform prices for all milk so delivered, irrespective of uses made of such milk by the individual handler to whom it is delivered. This is the so-called "market-wide pool" method of paying producers.

Under the "individual-handler pool," handlers pay the total use value of their milk to their producers directly. Under the "market-wide pool," handlers pay their producers the market-wide uniform or blend price. In order to equalize payments among handlers where orders provide for the market-wide pool, a producer settlement fund is established and maintained by the market administrator. Each handler pays into the fund the amount by which the value of his milk at the class prices is greater than the aggregate amount he pays his producers at the blend price, and, conversely, each handler receives from the fund the amount by which the value of his milk at the class prices is less than the aggregate amount he pays his producers at the blend price.

In addition to the foregoing payments, each handler is required to pay the market administrator his pro rata share of the expense of administering the respective orders. Most orders also require each handler to make deductions from his payments to producers and to pay such deductions to the market administrator or to a cooperative association of producers, as the case may be, for marketing services, i. e., marketing information and the verification of weights, sampling, and testing of milk.

Each month handlers are required to report to the market administrators information relating to the quantities of milk received and their sources, the utilization of such receipts, and payments to producers. Handlers are required to make available to market administrators such books and records as will enable the market administrators to verify reports or to ascertain correct information. Whenever an audit by a market administrator discloses errors resulting in money due (a) the market administrator from a handler, or a handler from the market administrator, or (b) any producer or association of producers from a handler, the payment of the amount due is required to be made.

Although all of the marketing agreements and orders provide with particularity when the various payments are to be made, none of them specifies the time within which an error in payment must be discovered or provides for the termination of an obligation because of the expiration of time. When milk marketing programs were first promulgated, this omission was not serious. However, now that milk orders have been in effect over a considerable length of time—six orders have been in effect more than ten years and one-half of all orders were in effect prior to 1941—the failure to provide in the orders for a termination of the obligations thereunder for the payment of money creates uncertainties among producers and handlers which may endanger the stability of the markets and lead to serious inequities.

Without a termination of obligations, handlers may file claims which, because the period involved extends back over many years, are in substantial amounts. Funds for the payment of such claims are obtained only from payments to producers supplying the market with milk during the period when the claims are paid. This results in a reduction in the payments to these producers. Since, over extended periods of time, there is a considerable turnover in the producers supplying a market, a reduction in their payments results in inequities as to those producers who were not in the market during the period out of which the handlers' claims arise. This result, therefore, tends to cause producers to leave the market, and is a potential cause of milk shortage. If, on the other hand, the minimum prices for milk are increased to compensate producers for deductions made to pay old claims, such prices probably would not be in the public interest. Thus, in the absence of a termination of obligations, the stability of milk markets is endangered by the ever-present threat of the necessity for making substantial payments arising from the accrual of liabilities over extended periods of time.

The marketing agreements and orders should provide that any obligation to pay a handler any money which such handler claims to be due him under the terms of an order, shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or within two years after payment was made if a refund is claimed, unless such handler, within such period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

There was general agreement at the hearing that the two year period was reasonable. This will allow a handler ample time to decide whether he should contest an obligation imposed upon him pursuant to an order.

Currently, Order No. 27 regulating the handling of milk in the New York metropolitan marketing area, provides specially for the reclassification, under certain conditions, of milk the butterfat from which is classified as storage cream, i. e., as Class II–B. Under these provisions, the classification of Class II–B milk is not finally determined until the cream is removed from storage. The final classification of such milk is effected, upon the utilization of the cream after its removal from storage, by payments to handlers from the producer-settlement fund of specified amounts of money. Since the cream is in storage an average of several months, and in some cases more than one year, final settlement of the storage cream accounts cannot be made on the same schedule as would apply to other clasifications. To provide for this situation, Order No. 27 should contain special provisions to terminate obligations arising out of storage cream payments at the expiration of two years after the end of the calendar month during which such cream was utilized.

Handlers also need the protection of provisions terminating their obligations to make payments. Delays have occurred in the notification to handlers that they owe money under the orders. The results of litigation, the disclosure of additional facts, or other circumstances have required a change in the application of a section of an order. When this happens, a market administrator, in the absence of a provision to terminate obligations, has been required to reaudit and rebill all handlers to whom the corrected application applied, even though it meant going back, in the case of some orders, more than ten years. Since handlers cannot be forewarned as to contingent liabilities of this nature, it is extremely difficult and burdensome for them to make adequate provision therefor by setting up reserves or taking other precautionary measures.

As milk marketing programs are in effect over longer and longer periods, the problem of adjustments has become more acute. Obviously, if a market administrator is required to reaudit and rebill a handler for milk handled for periods of from five to ten years, the amounts involved may be large enough to render the handler insolvent or otherwise cause him irreparable damage. Provisions for the termination of obligations will reduce the uncertainty arising from the potential liabilities of handlers and are necessary to promote the orderly marketing of milk.

For the reasons hereinafter more fully discussed, it is concluded that handlers should not be required to retain books and records after the expiration of a specified period of time because the accumulated volume of such records becomes burdensome and their value diminishes with the passage of time. A limitation of time for the retention of records would, however, be of doubtful benefit to handlers if a concomitant termination of handlers' obligations were not likewise provided for. A handler must account for the receipt and utilization of, and payment for milk by the books and records he maintains in the regular operation of his business. Without termination of obligation provisions, a handler could dispose of his records only at considerable risk, even though the

order did not expressly require the retention of records beyond a specified period of time. Termination of obligation provisions are, therefore, necessary to effectuate the other provisions of the marketing agreements and orders, including any provisions that may be made prescribing the length of time for which records are to be retained.

It was proposed at the hearing that all audits or reaudits of a handler's books and records and all revisions of obligations and adjustments be completed and mailed to a handler within two years after the date upon which a handler files a report covering the milk involved in such audits, reaudits, and adjusted billings. Inasmuch as it is concluded to terminate an obligation unless the notice thereof is mailed to a handler within a two year period, the failure to mail such notice within the time prescribed would terminate the obligation, and any audits or reaudits in connection therewith made after the expiration of the prescribed time would have no practical effect. The effect of a limitation on the period for making audits is, therefore, adequately covered by the termination of obligation provisions. Hence, such limitation is not necessary.

The obligation of any handler to pay money should, except as hereinafter indicated, terminate two years after the last day of the calendar month during which the market administrator receives the handler's report of utilization of the milk involved in such obligation, unless within such two year period the market administrator notifies the handler in writing that such money is due and payable. In general, it appears that a period of two years is a reasonable time within which a market administrator should complete his auditing and inspection work and render any billings for money due under the order.

The notification in writing by the market administrator, before the expiration of the two year period, will prevent the obligation covered by such notification from terminating. The purpose of the termination of obligation provisions is to reduce the uncertainties arising out of potential liabilities for unknown amounts for extended periods in the past. The notice should, therefore, inform the handler of the amount of the obligation, the months or periods during which the milk involved was received or handled, and the person or persons to whom the obligation is payable. If the obligation is payable to the market administrator, the account for which it is to be paid should be indicated. The service of the notice should be complete upon mailing to the last known address of the handler. This method of service conforms to the accepted business practice of mailing statements and billings to handlers under the various marketing orders.

Proposals were made at the hearing for the termination of a handler's obligation unless, within a prescribed period of time, court action is instituted to enforce the payment of the obligations. The procedure provided for in the act contemplates that handlers will comply with the obligations imposed upon them under an order. If they deem such obligations are not in accordance with law, they may file petitions pursuant to section 8c (15) (A) of the act, for corrective action. Moreover, the record contains no evidence to indicate that there has been, or will be, any delay in the institution of enforcement proceedings should a handler fail to comply with the provisions of an order. The proposals in this regard, therefore, should not be adopted.

If a handler refuses or fails with respect to an obligation under the order, to make available to the market administrator all books and records required by the order to be made available, the market administrator should notify such handler in writing of such failure or refusal within two years after the end of the month during which the handler submits his reports with respect to the milk in question. If the market administrator so notifies the handler, the two year period with respect to the obligation should not begin to run until the first day of the calendar month following the month during which all the books and records pertaining to such obligation are made available to the market administrator.

Such a provision is necessary to provide adequate opportunity for the proper and complete audit of books and records of handlers before obligations involved in such audits are terminated. The handler should make available all of his books and records which pertain to an obligation before the limitation period begins to run because it is not possible to perform a satisfactory audit unless all records pertaining to the obligation are available at the same time for cross-checking and comparison purposes. If the two year period is extended by virtue of this provision, the responsibility therefor will be that of the handler who failed or refused to make his records available.

A handler's obligation to pay money should not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed. Certain handlers objected to the inclusion of an exception to cover fraud or the willful concealment of a material fact. Aside from the fact that a handler should not be permitted to benefit from his own misconduct, the failure to include such an exception would place a premium on fraud and encourage the practice of concealing records.

The provisions for the termination of obligations should apply to any obligation irrespective of when such obligation arose, except an obligation involved in an administrative proceeding under section 8c (15 (A) of the act or a court action, instituted before August 1, 1949.

The application of these provisions to all past, as well as future, obligations is necessary to effectuate fully the purposes of such provisions. Orderly marketing requires that all persons subject to an order be relieved of the constant threat of liability for "stale" claims arising out of transactions which everyone has reason to believe have been settled. Moreover, without the termination of obligations relating to past transactions, handlers would be required, for their own protection, to retain indefinitely all the records relating to such transactions. Thus, the salutary effects of allowing handlers to dispose of old records would be largely defeated.

The termination of obligation provisions should not, of course, apply to obligations involved in pending administrative proceedings or court actions. Such provisions likewise should not apply to obligations as to which administrative proceedings or court actions are instituted before August 1, 1949. This will allow all interested parties at least six months to determine if there are any outstanding obligations which would otherwise be terminated by the adoption of the proposed amendments and, if there are such obligations, to take appropriate measures to protect their interests in such obligations. All persons who testified with respect to this matter at the hearing stated that the period of six months is a reasonably adequate time for this purpose.

The terms and conditions of the proposed amendments hereinafter set forth are necessary to effectuate the other provisions of the marketing agreements and orders regulating the handling of milk in the aforesaid respective milk marketing areas.

2. *Retention of records.* Because there has been no time limitation within which obligations for the payment of money are terminated, and because the orders have not provided a definite period of time for the retention of records required to be made available under the orders for the verification of reports by market administrators, handlers have generally followed the practice of retaining from the beginning of a regulatory program all of the records which pertained to order transactions. Handlers must keep detailed records relating to their daily purchases of milk from individual producers, the butterfat tests of milk received from individual producers, and the daily utilization and disposal of milk at individual milk plants. Detailed records of this kind soon assume tremendous physical proportions. It has been necessary for handlers to rent warehouse space in which to store these records. This, in itself, has been a considerable financial burden.

Because the records are of such a detailed nature and because they relate to very complicated situations, an accurate interpretation of the records is ordinarily possible only by a person familiar with them. As time passes, the memories of employees are dulled and they cannot interpret old records with a reasonable degree of certainty or accuracy. Moreover, employees leave their positions with handlers and are replaced by other employees. It frequently is impossible for a new employee, not acquainted with records prepared by a predecessor, to make an accurate interpretation of them. The value of records in terms of proving or disproving claims, therefore, diminishes as times goes on.

Consequently, it is necessary that a definite time period be provided in each of the orders within which handlers must maintain their records and after which they will be definitely relieved of the requirement of doing so. More particu-

larly, the orders should be amended to provide that handlers retain records for three years after the end of the delivery period to which such records relate. In terms of the volume of records which would be retained, the retention of records for three years appears to be a reasonable requirement.

A three year period for retaining records is about a year more than is to be provided for under the termination of obligation provisions. This difference in time is necessary, however. In the first place, the two year period relating to the termination of obligations begins at the end of the calender month during which the report of a handler is received by the market administrator. Utilization reports are normally received by the market administrator during the month following that within which the milk reported is received and utilized. Under some circumstances, however, the report might not be received until several months after the receipt and utilization of the milk reported. The time requirement for the retention of records, on the other hand, begins on the last day of the calendar month to which such records relate. Moreover, the notice that money is due and payable might not be rendered until near the end of the two year period and further action might be necessary in connection with a final settlement of the obligation. During the pendency of the settlement, the records upon which the obligation is based should be retained. These circumstances indicate that records should be retained for a somewhat longer period than is provided with respect to the termination of obligations. The three year period for the retention of records is, therefore, reasonable.

Records and accounts are frequently involved in litigation under the orders. Such litigation sometimes requires a longer period of time than normally would be feasible for the routine maintenance of records. It is necessary, therefore, to provide, where books and records are necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action, that handlers be required to retain such records for a longer period than is otherwise required. Under some circumstances it may be necessary for the market administrator to order the retention of all records relating to an obligation; in other cases he may be able to specify particular books and records which should be retained for use in litigation. Consequently, handlers should be required to retain either all, or such part as the market administrator may specify, of such records when they are notified to do so by the market administrator and they should continue to retain them until further notification from the market administrator. In order that handlers, as a result of the action of the market administrator, may not be required to retain records after their need in litigation has ended, the market administrator should notify handlers promptly when, following the close of litigation, the records are no longer necessary in connection therewith.

There may be court actions or proceedings under section 8e (15) (A) of the act which depend upon records pertaining to periods prior to three years before the effective date of the amendment herein decided upon. Inasmuch as the amendment provides generally that handlers may dispose of records which are more than three years old, a temporary safeguard must be provided with respect to records which would be more than three years old at the time the amendment becomes effective and which might be necessary in connection with a court action or proceeding under section 8e (15) (A) of the act. It should be provided, therefore, that market administrators have until October 1, 1949, to notify handlers to retain records which pertain to transactions taking place before August 1, 1946. By this means market administrators will be afforded time to notify handlers to retain records concerning transactions at any time before the effective date of the amendment. They will also have time to notify handlers to retain records which may be necessary in connection with litigation initiated between the effective date and August 1, 1949.

The terms and conditions of the proposed amendments hereinafter set forth are necessary to effectuate the other provisions of the marketing agreements and orders regulating the handling of milk in the aforesaid respective milk marketing areas.

General findings. (a) The marketing agreements and orders, as hereby proposed to be amended, and all the terms and conditions thereof will tend to effectuate the declared policy of the act.

(b) Each of the marketing agreements and orders, as hereby proposed to be amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activities specified in marketing agreements upon which hearings have been held.

(c) The prices calculated to give milk produced for sale in each of the aforesaid marketing areas a purchasing power equivalent to the purchasing power of such milk as determined pursuant to sections 2 and 8e of the act are not reasonable in view of the price of feed, available supplies of feeds, and other economic conditions which affect market supply and demand for such milk, and the minimum prices specified in each of the marketing agreements and orders, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest.

Marketing agreements and orders. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Milk in the _____ Marketing Area" and "Order, Amending the Orders, As Amended, Regulating the Handling of Milk in Certain Marketing Areas," which have been decided upon as the appropriate and detailed means of effectuating the foregoing conclusions. These documents shall not become effective as to any marketing area specified therein unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders, have been met with respect to such marketing area.

It is hereby ordered, That all of this decision, except the attached form of marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreements will be identical with those contained in the respective orders, as amended, and as proposed to be further amended by the attached order which will be published with this decision.

This decision filed at Washington, D. C., this 26th day of January 1949.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

ORDER,[1] AMENDING THE ORDERS, AS AMENDED, REGULATING THE HANDLING OF MILK IN CERTAIN MARKETING AREAS

Findings and determinations. The findings and determinations hereinafter set forth are supplementary to and in addition to the findings and determinations previously made in connection with the issuance of the orders and of each of the previously issued amendments thereto regulating the handling of milk in the following marketing areas:

St. Louis, Mo.	Quad Cities.
Greater Boston, Mass.	Louisville, Ky.
Dubuque, Iowa.	Fall River, Mass.
Greater Kansas City.	Sioux City, Iowa.
South Bend-La Porte County, Ind.	Duluth-Superior.
New York Metropolitan.	Philadelphia, Pa.
Toledo, Ohio.	Cincinnati, Ohio.
Fort Wayne, Ind.	Wichita, Kans.
Lowell - Lawrence, Mass.	Suburban Chicago.
Omaha - Council Bluffs.	Clinton, Iowa.
Chicago, Ill.	Dayton - Springfield, Ohio.
New Orleans, La.	Tri-State.
	Minneapolis-St. Paul.
	Columbus, Ohio.
	Cleveland, Ohio.

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

(a) *Findings upon the basis of the hearing record.* Pursuant to Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act"), and the rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR and Supps. 900.1 et seq.; 13 F. R. 8585), a public hearing was held at Washington, D. C., on July 30, 1947, upon proposed amendments to the tentatively approved marketing agreements, the marketing agreements, as amended, and to the orders, as amended, regulating the handling of milk in certain marketing areas. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

[1] This order shall not become effective as to any marketing area specified herein unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and orders have been met with respect to such marketing area.

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

(2) The prices calculated to give milk produced for sale in said marketing areas a purchasing power equivalent to the purchasing power of such milk as determined pursuant to sections 2 and 8e of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply of and demand for such milk and the minimum prices specified in the orders, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(3) The said orders, as amended, and as hereby further amended, regulate the handling of milk in the same manner as and they are applicable only to persons in the respective classes of industrial and commercial activity specified in the marketing agreements upon which hearings have been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof, the handling of milk in the aforesaid marketing areas shall be in conformity to and in compliance with the terms and conditions of the aforesaid orders, as amended, and as hereby further amended; and the aforesaid orders, as amended, are hereby further amended as follows:

1. Amend each of the orders specified in this paragraph by incorporating therein, in the manner indicated, the following provisions:

Retention of records. All books and records required under this order to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain, except that all such books and records pertaining to transactions before August 1, 1946, shall be retained until October 1, 1949: *Provided*, That if, within such three-year period or before October 1, 1949, whichever is applicable, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

Part 903—Milk in the St. Louis, Missouri, marketing area as § 903.5 (c).

Part 904—Milk in the Greater Boston, Massachusetts, marketing area as § 904.6 (h).

Part 912—Milk in the Dubuque, Iowa, marketing area as § 912.7 (f).

Part 913—Milk in the Greater Kansas City marketing area as § 913.3 (e).

Part 927—Milk in the New York metropolitan marketing area as § 927.6 (f).

Part 930—Milk in the Toledo, Ohio, marketing area as § 930.3 (d).

Part 932—Milk in the Fort Wayne, Indiana, marketing area as § 932.3 (d).

Part 934—Milk in the Lowell-Lawrence, Massachusetts, marketing area as § 934.7 (g).

Part 935—Milk in the Omaha-Council Bluffs marketing area as § 935.3 (c).

Part 941—Milk in the Chicago, Illinois, marketing area as § 941.3 (c).

Part 942—Milk in the New Orleans, Louisiana, marketing area as § 942.3 (e).

Part 944—Milk in the Quad Cities marketing area as § 944.3 (d).

Part 946—Milk in the Louisville, Kentucky, marketing area as § 946.5 (f).

Part 947—Milk in the Fall River, Massachusetts, marketing area as § 947.3 (c).

Part 948—Milk in the Sioux City, Iowa, marketing area as § 948.3 (c).

Part 954—Milk in the Duluth-Superior marketing area as § 954.3 (c).

Part 961—Milk in the Philadelphia, Pennsylvania, marketing area as § 961.5 (g).

Part 965—Milk in the Cincinnati, Ohio, marketing area as § 965.4 (d).

Part 967—Milk in the South Bend-La Porte, Indiana, marketing area as § 967.3 (d).

Part 968—Milk in the Wichita, Kansas, marketing area as § 968.5 (e).

Part 969—Milk in the Suburban Chicago marketing area as § 969.3 (c).

Part 970—Milk in the Clinton, Iowa, marketing area as § 970.5 (f).

Part 971—Milk in the Dayton-Springfield, Ohio, marketing area as § 971.3 (d).

Part 972—Milk in the Tri-State marketing area as § 972.3 (d).

Part 973—Milk in the Minneapolis-St. Paul marketing area as § 973.3 (e).

Part 974—Milk in the Columbus, Ohio, marketing area as § 974.3 (d).

Part 975—Milk in the Cleveland, Ohio, marketing area as § 975.4 (d).

2. Amend each of the orders specified in this paragraph by adding thereto, in the manner indicated, the following provisions:

Termination of obligation. The provisions of this section shall apply to any obligation under this order for the payment of money irrespective of when such obligation arose, except an obligation involved in an action instituted before August 1, 1949, under section 8c (15) (A) of the act or before a court.

(a) The obligation of any handler to pay money required to be paid under the terms of this order shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this order, to make available to the market administrator or his representatives all books or records required by this order to be made available, the market administrator may, within the two year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this order to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this order shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

Part 903—Milk in the St. Louis, Missouri, marketing area as § 903.16.

Part 904—Milk in the Greater Boston, Massachusetts, marketing area as § 904.14.

Part 912—Milk in the Dubuque, Iowa, marketing area as § 912.16.

Part 913—Milk in the Greater Kansas City marketing area as § 913.13.

Part 930—Milk in the Toledo, Ohio, marketing area as § 930.16.

Part 932—Milk in the Fort Wayne, Indiana, marketing area as § 932.16.

Part 934—Milk in the Lowell-Lawrence, Massachusetts, marketing area as § 934.15.

Part 935—Milk in the Omaha-Council Bluffs marketing area as § 935.12.

Part 941—Milk in the Chicago, Illinois, marketing area as § 941.15.

Part 942—Milk in the New Orleans, Louisiana, marketing area as § 942.14.

Part 944—Milk in the Quad Cities marketing area as § 944.15.

Part 946—Milk in the Louisville, Kentucky, marketing area as § 946.13.

Part 947—Milk in the Fall River, Massachusetts, marketing area as § 947.15.

Part 948—Milk in the Sioux City, Iowa, marketing area as § 948.11.

Part 954—Milk in the Duluth-Superior marketing area as § 954.15.

Part 961—Milk in the Philadelphia, Pennsylvania, marketing area as § 961.12.

Part 965—Milk in the Cincinnati, Ohio, marketing area as § 965.16.

Part 967—Milk in the South Bend-La Porte, Indiana, marketing area as § 967.16.

Part 968—Milk in the Wichita, Kansas, marketing area as § 968.14.

Part 969—Milk in the Suburban Chicago marketing area as § 969.14.

Part 970—Milk in the Clinton, Iowa, marketing area as § 970.13.

Part 971—Milk in the Dayton-Springfield, Ohio, marketing area as § 971.15.

Part 972—Milk in the Tri-State marketing area as § 972.15.

Part 978—Milk in the Minneapolis-St. Paul marketing area as § 973.13.

Part 974—Milk in the Columbus, Ohio, marketing area as § 974.14.

Part 975—Milk in the Cleveland, Ohio, marketing area as § 975.17.

3. Amend Part 927—Milk in the New York Metropolitan Marketing Area, as follows:

a. Renumber §§ 927.11, 927.12, and 927.13, respectively, as §§ 927.12, 927.13, and 927.14.

b. Add a new § 927.11 as follows:

§ 927.11 *Termination of obligations.* The provisions of this section shall apply to any obligation under this order for the payment of money irrespective of when such obligation arose, except an obligation involved in an action instituted before August 1, 1949, under section 8c (15) (A) of the act or before a court.

(a) The obligation of any handler to pay money required to be paid under the terms of this order shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this order, to make available to the market administrator or his representatives all books and records required by this order to be made available, the market administrator may, within the two year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this order to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this order shall terminate two years after the end of the calendar month during which the milk involved in the claim was received (or with respect to storage cream payments pursuant to § 927.9 (g), two years after the end of the calendar month during which such cream is utilized) if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable periods of time, files pursuant to section 8c (15) (A) of the act, a petition claiming such money.

[F. R. Doc. 49-752; Filed, Jan. 31, 1949; 8:50 a. m.]

NOTICES

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[Administrative Order 4]

DESIGNATING CERTAIN LANDS TO BE ADMINISTERED AS PART OF SHASTA NATIONAL FOREST, CALIFORNIA

Whereas, the following described lands situate within the State of California have been acquired by the United States as donations under the authority of the act of March 1, 1911 (36 Stat. 961), as amended and supplemented by the act of June 7, 1924 (43 Stat. 653):

MOUNT DIABLO MERIDIAN

T. 44 N., R. 1 E.:
Sec. 12, E½, E½W½;
Sec. 13, N½NE¼, SW¼NE¼, NE¼NW¼.
T. 44 N., R. 2 W.:
Sec. 7, All, fractional;
Sec. 8, W½, W½SE¼;
Sec. 17, NW¼NE¼, NW¼;
Sec. 18, N½, fractional;
Sec. 33, E½;
Sec. 34, NW¼, W½SW¼, E½SW¼.

Whereas, the aforesaid lands are subject to all laws applicable to lands acquired under the above mentioned act of March 1, 1911, and

Whereas, pursuant to the provisions of section 7, of the aforementioned act of June 7, 1924, lands acquired thereunder may be administered as National Forest lands jointly with an existing National Forest, and,

Whereas, the above described lands are so situated that the public interest and economy will be best served by having them administered as a part of the Shasta National Forest;

Now, therefore, I, Secretary of Agriculture, by virtue of the authority vested in me by the aforementioned acts, do hereby order that the lands described above be administered as a part of and jointly with other National Forest lands included within the exterior boundaries of the Shasta National Forest.

This order shall become effective as of February 1, 1949.

In testimony whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed, in the City of Washington, this 26th day of January 1949.

[SEAL] CHARLES F. BRANNAN,
Secretary of Agriculture.

[F. R. Doc. 49-743; Filed, Jan. 31, 1949; 8:47 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-1147]

PANHANDLE EASTERN PIPE LINE CO. ET AL.

ORDER POSTPONING HEARING

In the matter of Panhandle Eastern Pipe Line Company, Hugoton Production Company, and Missouri-Kansas Pipe Line Company, Stephen Carlton Clark, Anderson & Company, Brown Brothers Harriman & Compay, Insurance Company of North America, Investors Trust Company, Frederick Ambrose Clark, Carothers & Clark and Frank J. Lewis, on their own behalf and as representatives of all the holders of the common stock of Panhandle Eastern Pipe Line Company of record on October 29, 1948, Docket No. G-1147.

In a companion court case to the instant proceeding, entitled "Federal Power Commission v. Panhandle Eastern Pipe Line Company," which the Commission, as plaintiff, instituted on November 13, 1948, in the United States District Court for the District of Delaware against Panhandle Eastern Pipe Line Company ("Panhandle"), as defendant, the Commission seeks an injunction, inter alia, to restrain Panhandle from delivering to the holders of the common stock of Panhandle, certificates for 810,000 shares of the capital stock of Hugoton Production Company ("Hugoton"), pending determination by the Commission of the issues in this proceeding. On November 30, 1948, the District Court entered a judgment in such case denying the Commission's motion for a preliminary injunction. The Commission appealed to the United States Court of Appeals for the Third Circuit, and that court entered a stay order restraining Panhandle from delivering such certificates to the holders of its common stock pending the appeal. On January 6, 1949, the Court of Appeals rendered a decision in such case whereby it affirmed the judgment of the District Court, and continued the stay order in effect for a period of 10 days, in order

to give the Commission opportunity to seek certiorari. Thereafter such restraint was extended to January 23, 1949. The Court of Appeals has now entered an order whereby the stay is continued in force and effect until February 12, 1949, and, upon notification to the clerk of said Court on or before said date that the Commission has filed in the Supreme Court of the United States a petition for a writ of certiorari, until final disposition of the cause by the Supreme Court. By stipulation between the Commission and Panhandle, such continuance of the stay is conditioned upon the entry on or before January 28, 1949, of an order by the Commission postponing the hearing in the above-entitled proceeding before it, now set for February 7, 1949, until a date subsequent to the final disposition of the court case by the Supreme Court.

The Commission orders: The hearing in this matter now set to commence on February 7, 1949, be and the same is hereby postponed to a date to be fixed by further order of the Commission, subsequent to final disposition of the aforementioned case by the United States Supreme Court.

Date of issuance: January 25, 1949.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 49-734; Filed, Jan. 31, 1949; 8:46 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616, E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 12614]

CARL H. BURMEISTER AND WELLS FARGO BANK & UNION TRUST CO.

In re: Trust agreement dated April 28, 1927 between Carl H. Burmeister, trustor, and Wells Fargo Bank & Union Trust Company, trustee, as amended. Filed No. D-28-3803 G-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Magda Tychsen, Annie Tychsen, Lena Tychsen, Liza Tychsen, Fritz Tychsen, Ulrich Hansen, Willy P. Hansen, Wilhelm C. Burmeister, Fritz Burmeister, Helmi Burmeister, Carl H. Burmeister, Wilhelm Burmeister, and Ella Goerke, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That the issue, names unknown, of Magda Tychsen, of Ulrich Hansen, of Willy P. Hansen, of Wilhelm C. Burmeister, and of Ella Goerke, and the domiciliary personal representatives, heirs-at-law, next-of-kin, legatees and distributees, names unknown, of Ida Hansen, deceased; who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany);

3. That all right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraphs 1 and 2 hereof, and each of them, in and to and arising out of or under that certain trust agreement dated April 28, 1927 by and between Carl H. Burmeister, trustor, and Wells Fargo Bank & Union Trust Company, trustee, as amended on April 30, 1927, May 3, 1927, February 3, 1930, January 18, 1933, and February 27, 1937, presently being administered by Wells Fargo Bank & Union Trust Company, trustee, 4 Montgomery Street, San Francisco, California,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof and the issue, names unknown, of Magda Tychsen, of Ulrich Hansen, of Willy P. Hansen, of Wilhelm C. Burmeister and of Ella Goerke, and the domiciliary personal representatives, heirs-at-law, next-of-kin, legatees and distributees, names unknown, of Ida Hansen, deceased, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on January 5, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-739; Filed, Jan. 31, 1949; 8:46 a. m.]

[Vesting Order 12676]

CARL WILHELM BRABENDER

In re: Cash and currency owned by Carl Wilhelm Brabender, also known as Wilhelm Brabender. D-28-2861-F-1.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Carl Wilhelm Brabender, also known as Wilhelm Brabender, on or since the effective date of Executive Order 8389, as amended, and on or since December 11, 1941, has been a resident of Germany, and is a national of a designated enemy country (Germany);

2. That the property described as follows: Cash and currency contained in safe deposit box No. 639 maintained in the name of Wilhelm Brabender by the Chase Safe Deposit Company, 18 Pine Street, New York 5, New York,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on January 12, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-740; Filed, Jan. 31, 1949; 8:46 a. m.]

[Vesting Order 12677]

DR. ERNST SCHNABEL

In re: Bank accounts owned by Dr. Ernst Schnabel. F-28-9830-C-1, F-28-9830-E-1, F-28-9830-E-2.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Dr. Ernst Schnabel on or since the effective date of Executive Order 8389, as amended, and on or since December 11, 1941, has been a resident of Germany, and is a national of a designated enemy country (Germany);

2. That the property described as follows:

a. That certain debt or other obligation of the First National Bank and Trust Company of Montclair, 600 Valley Road, Upper Montclair, New Jersey, arising out of a checking account, entitled Dr. Ernst Schnabel, maintained at the aforesaid bank, and any and all rights to demand, enforce and collect the same, and

b. That certain debt or other obligation owing to Dr. Ernst Schnabel, by First National Bank of Belleville, 144 Washington Avenue, Belleville 9, New Jersey, arising out of a checking account, entitled Resistoflex Corp. Special Account, of, or owing to, or which is evidence of ownership or control by, Dr. Ernst Schnabel, the aforesaid national of a designated enemy country (Germany);

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, Dr. Ernst Schnabel, the aforesaid national of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on January 12, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 49-741; Filed, Jan. 31, 1949; 8:46 a. m.]

[Vesting Order 500A-245]

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Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That the persons (including individuals, partnerships, associations, corporations or other business organizations) referred to or named in Column 5 of Exhibit A attached hereto and made a part hereof and whose last known addresses are listed in said Exhibit A as being in a foreign country (the names of which persons are listed (a) in Column 3 of said Exhibit A as the authors of the works, the titles of which are listed in Column 2, and the copyright numbers, if any, of which are listed in Column 1, respectively, of said Exhibit A, and/or (b) in Column 4 of said Exhibit A as the owners of the copyrights, the numbers, if any, of which are listed in Column 1, and covering works the titles of which are listed in Column 2, respectively, of said Exhibit A, and/or (c) in Column 5 of said Exhibit A as others owning or claiming interests in such copyrights) are residents of, or are organized under the laws of, or have their principal places of business in, such foreign country and are nationals thereof;

2. That all right, title, interest and claim of whatsoever kind or nature, under the statutory and common law of the United States and of the several States thereof, of the persons referred to in Column 5 of said Exhibit A, and also of all other persons (including individuals, partnerships, associations, corporations or other business organizations), whether or not named elsewhere in this order including said Exhibit A, who are residents of, or which are organized under the laws of or have their principal places of business in, Germany or Japan, and are nationals of such foreign countries, in, to and under the following:

a. The copyrights, if any, described in said Exhibit A,

b. Every copyright, claim of copyright and right to copyright in the works described in said Exhibit A and in every issue, edition, publication, republication, translation, arrangement, dramatization and revision thereof, in whole or in part, of whatsoever kind or nature, and of all other works designated by the titles therein set forth, whether or not filed with the Register of Copyrights or otherwise asserted, and whether or not specifically designated by copyright number,

c. Every license, agreement, privilege, power and right of whatsoever nature arising under or with respect to the foregoing,

d. All monies and amounts, and all rights to receive monies and amounts, by way of royalty, share of profits or other emolument, accrued or to accrue, whether arising pursuant to law, contract or otherwise, with respect to the foregoing,

e. All rights of renewal, reversion or revesting, if any, in the foregoing, and

f. All causes of action accrued or to accrue at law or in equity with respect to the foregoing, including but not limited to the rights to sue for and recover all damages and profits and to request and receive the benefits of all remedies provided by common law or statute for the infringement of any copyright or the violation of any right or the breach of any obligation described in or affecting the foregoing,

is property of, and is property payable or held with respect to copyrights or rights related thereto in which interests are held by, and such property itself constitutes interests held therein by, the aforesaid nationals of foreign countries.

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described in subparagraph 2 hereof, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The term "national" as used herein shall have the meaning prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on January 5, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,
Assistant Attorney General,
Director, Office of Alien Property.

EXHIBIT A

Column 1 Copyright Nos.	Column 2 Titles of works	Column 3 Names and last known nationalities of authors	Column 4 Names and last known addresses of owners of copyrights	Column 5 Identified persons whose interests are being vested
R-75590 (May 16, 1939).	Drei symphonisches Chorale für Orgel Opus 87, No. 1 entitled "Ach bleib mit deiner gnade". 1911.	Sigfrid Karg-Elert (deceased).	Louise Karg-Elert, Elisenstr 111, Leipzig S.3, Germany (nationality, German).	Owner.

[F. R. Doc. 49-727; Filed, Jan. 28, 1949; 8:55 a. m.]