PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Subpart—Order Regulating Handling

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AUTHORITY: §§ 908.1 to 908.141 issued under sec. 5, 49 Stat. 753, as amended; 7 U.S.C. 608c. Additional authority is cited in parentheses following sections affected.

Subpart—Order Regulating Handling

SOURCE: §§ 908.1 to 908.90 appear at 19 F.R. 1742, Mar. 31, 1954, except as otherwise noted. Redesignated at 26 F.R. 12751, Dec. 30, 1961.

DEFINITIONS

§ 908.1 Secretary.

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

§ 908.2 Act.

"Act" means 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 (48 Stat. 31, as amended; 7 U.S.C. 601 et seq.; 68 Stat. 906, 1047).

[19 F.R. 1742, Mar. 31. 1954, as amended at 21 F.R. 4393, June 22, 1956]

§ 908.3 Person.

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

§ 908.4 Production area.

"Production area" means the State of Arizona and that part of the State of California south of a line drawn due east and west through the post office in Turlock, California.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674) [27 F.R. 10089, Oct. 13, 1962]

§ 908.4 Production area.

"Production area" means the State of Arizona and that part of the State of California south of the 37th Parallel.

§ 908.5 Oranges.

"Oranges" means any and all strains of the Valencia variety of oranges grown in the production area.

§ 908.6 Fiscal year.

"Fiscal year" means the twelve-month period ending October 31 of each year: *Provided, however,* That the initial fiscal year shall begin with the effective date of this part and end October 31, 1954.

§ 908.7 Marketing year.

"Marketing year" means the twelve-month period ending January 31 of each year.

§ 908.8 Committee.

"Committee" means the Valencia Orange Administrative Committee established pursuant to § 908.20.

§ 908.9 Grower.

"Grower" and "producer" are synonymous and mean any person who produces oranges for market.

§ 908.10 Handler.

"Handler" means any person who handles oranges.

§ 908.11 Handle.

"Handle" means to buy, sell, consign, transport, or ship oranges (except as a common or contract carrier of oranges owned by another person), or in any other way to place oranges in the current of commerce, between the State of California and any point outside thereof in the continental United States, Alaska, or Canada, or within the State of California, or between the State of Arizona and any point outside thereof in the continental United States, Alaska, or Canada, or within the State of Arizona. The term "handle" does not include (a) the sale of oranges on the tree; (b) the transportation of oranges to a packinghouse for the purpose of having such oranges prepared for market and such preparation for market; (c) the transportation of oranges for storage within the production area under such rules and regulations as the committee, with the approval of the Secretary, may prescribe; or (d) the sale of oranges at retail by a person in his capacity as such retailer.

§ 908.12 Oranges available for current shipment.

"Oranges available for current shipment" means all oranges as measured by the tree crop.

§ 908.13 Tree crop.

"Tree crop" means the total quantity of oranges on the trees as determined by the committee.

§ 908.14 Early maturity oranges.

"Early maturity oranges" means any oranges that have reached maturity, as measured by applicable State laws, in advance of general maturity in the same prorate district.

§ 908.15 General maturity.

"General maturity" shall have been reached in any prorate district at such

time as the committee determines that allotment shall be distributed to all handlers in such prorate district.

§ 908.16 Carton.

"Carton" means the standard container number 58 as defined in section 828.83 of the Agricultural Code of California, as amended, of a capacity of approximately 38½ pounds of oranges, or such other container and capacity as may be established by the committee with the approval of the Secretary, or the equivalent thereof.

[21 F.R. 4392, June 22, 1956]

§ 908.17 Central marketing organization.

"Central marketing organization" means any organization which markets oranges for more than one handler pursuant to a written contract between such organization and each such handler.

§ 908.18 Carload.

"Carload" means a quantity of oranges equivalent to 924 cartons of oranges, or such other quantity of oranges as may be established by the committee with the approval of the Secretary.

[21 F.R. 4393, June 22, 1956]

§ 908.19 Export.

"Export" means to ship oranges to points outside the continental United States, Canada, and Alaska.

ADMINISTRATIVE BODY

§ 908.20 Establishment and membership.

There is hereby established a Valencia Orange Administrative Committee consisting of eleven members; for each of whom there shall be an alternate member who shall have the same qualifications as the member for whom each is an alternate. Six of the members and their respective alternates shall be growers. Four of the members and their respective alternates shall be handlers, or employees of handlers, or employees of central marketing organizations. One member of the committee and the alternate of such member shall be persons possessing the qualifications provided in § 908.22(f). The six members of the committee who shall be growers are referred to in this subpart as "grower" members of the committee and the four members who shall be handlers, or employees of handlers, or employees of central marketing organizations are referred to in this subpart as "handler" members of the committee.

[19 F.R. 1742, Mar. 31, 1954, as amended at 27 F.R. 10089, Oct. 13, 1962]

§ 908.21 Term of office.

The term of office of each initial member and alternate member of the committee shall begin with the effective date of this subpart and shall terminate on January 31, 1956. The term of office of each subsequent member and alternate member of the commitee shall be for a period of two marketing years, and such terms shall begin on February 1 of each even-numbered year: *Provided*, That such members and alternates shall serve in such capacities for the portion of the term of office for which they are selected and qualify and until their respective successors are selected and have qualified.

§ 908.22 Nominations.

(a) The time and manner of nominating members and alternate members of the committee shall be prescribed by the Secretary.

(b) Any cooperative marketing organization, or the growers affiliated therewith, which handled more than 50 percent of the total volume of oranges handled during the marketing year in which nominations for members and alternate members of the committee are submitted (except that the marketing year for initial nominations shall be the year beginning February 1, 1953 and ending January 31, 1954), shall nominate three grower members, three alternate grower members, two handler members, and two alternate handler members.

(c) All cooperative marketing organizations which market oranges and which are not qualified under paragraph (b) of this section, or the growers affiliated therewith, shall nominate two grower members, two alternate grower members, one handler member, and one alternate handler member.

(d) All growers who are not affiliated with a cooperative marketing organization which markets oranges shall nominate one grower member, one alternate grower member, one handler member, and one alternate handler member.

(e) When voting for nominees, each grower shall be entitled to cast one vote which shall be cast on behalf of himself, his agents, subsidiaries, affiliates, and representatives. The votes of cooperative marketing organizations voting pur-

suant to paragraph (c) of this section shall be weighted in accordance with the volume of oranges handled during the marketing year in which such nominations are made, except that the marketing year for initial nominations shall be the year beginning February 1, 1953, and ending January 31, 1954.

(f) The members of the committee selected by the Secretary pursuant to § 908.23 shall meet on a date designated by the Secretary and, by a concurring vote of at least six members, shall nominate a member and an alternate member of the committee, which persons shall not be growers or handlers, or employees, agents, or representatives of a grower or handler (other than a charitable or educational institution which is a grower or handler), or of a central marketing organization.

§ 908.23 Selection.

From the nominations made pursuant to § 908.22(b) or from other qualified growers and handlers the Secretary shall select three grower members of the committee and an alternate to each of such grower members; also two handler members of the committee and an alternate to each of such handler members. From the nominations made pursuant to § 908.22(c) or from other qualified growers and handlers the Secretary shall select two grower members of the committee and an alternate to each of such grower members; also one handler member of the committee and an alternate to such handler member. From the nominations made pursuant to § 908.22 (d) or from other qualified growers and handlers the Secretary shall select one grower member of the committee and an alternate to such grower member; also one handler member of the committee and an alternate to such handler member. From the nominations made pursuant to § 908.22(f) or from other qualified persons the Secretary shall select one member of the committee and an alternate to such member.

§ 908.24 Failure to nominate.

If nominations are not made within the time and in the manner specified by the Secretary pursuant to § 908.22(a), the Secretary may, without regard to nominations, select the members and alternate members of the committee on the basis of the representation provided for in § 908.23.

§ 908.25 Acceptance.

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

§ 908.26 Vacancies.

To fill any vacancy occasioned by the failure of any person selected as a member or as an alternate member of the committee to qualify or in the event of death, removal, resignation, or disqualification of any member or alternate member of the committee, a successor to the unexpired term of such member or alternate member of the committee shall be selected by the Secretary from nominations made in the manner specified in § 908.22 or from other qualified persons. If the names of nominees to fill any such vacancy are not made available to the Secretary within fifteen days after such vacancy occurs the Secretary may fill such vacancy without regard to nominations, which selection shall be made on the basis of representation provided for in § 908.23.

§ 908.27 Alternate members.

An alternate member of the committee, during the absence or at the request of the member for whom he is an alternate, shall act in the place and stead of such member: *Provided,* That a member may designate an alternate member other than his own alternate member to serve in the place and stead of such member, if the alternate member so designated was selected from the same group which was authorized to nominate the member. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor for such member is selected and has qualified.

§ 908.28 Powers.

The Committee shall have the following powers:

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

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

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

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

§ 908.29 Duties.

The committee shall have the following duties:

(a) To select a chairman and such other officers as may be necessary, and to define the duties of such officers;

(b) To appoint such employees, agents, and representatives as it may deem necessary, and to determine the compensation and to define the duties of each;

(c) To submit to the Secretary at the beginning of each fiscal year a budget for such fiscal year, including a report in explanation of the items appearing therein and a recommendation as to the rate of assessment for such fiscal year;

(d) To keep minutes, books, and records which will reflect all of the acts and transactions of the committee and which shall be subject to examination by the Secretary;

(e) To prepare a monthly statement of the financial operations of the committee and to make copies of each such statement available to growers and handlers for examination at the office of the committee;

(f) To cause its books to be audited by a certified public accountant at least once each fiscal year, and at such other times as the Secretary may request;

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

(h) To provide an adequate system for determining the total quantity of oranges available for current shipment, and to make such determinations, including determinations by grade, size, and maturity conditions, as it may deem necessary, or as may be prescribed by the Secretary, in connection with the administration of this part;

(i) To investigate the growing, handling, and marketing conditions with respect to oranges, and to assemble data in connection therewith;

(j) To submit to the Secretary such available information, including verified reports, as he may request;

(k) To notify producers and handlers of meetings of the committee to consider recommendations for regulation;

(l) To consult with such representatives of growers or groups of growers as may be deemed necessary and to pay the travel expenses incurred by such representatives in attending committee meetings at the request of the committee: *Provided,* That the committee shall not pay the travel expenses of more than three such representatives in connection with any one meeting of the committee:

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

(n) With the approval of the Secretary, to reapportion the number of grower members or handler members on the Valencia Orange Administrative Committee who are nominated pursuant to § 908.22 (c) and (d). Any such changes shall be based, insofar as practicable, upon the proportionate amount of Valencia oranges handled by the respective types of marketing organizations, provided that each of the grower groups described in § 908.22 (c) and (d) shall be entitled to nominate at least one grower and one handler member together with their respective alternates.

§ 908.30 Procedure.

(a) A majority of the committee shall constitute a quorum; and any action of the committee shall require at least six concurring votes.

(b) The committee may vote by telegraph, telephone, or other means of communication; and any votes so cast shall be confirmed promptly in writing: *Provided,* That if an assembled meeting is held, all votes shall be cast in person.

§ 908.31 Expenses aud compeusation.

The members of the committee, and their respective alternates when acting as members, shall be reimbursed for reasonable expenses necessarily incurred by them in the performance of their duties under this part and shall receive compensation at a rate to be determined by the committee, which rate shall not exceed $15 per day or portion thereof spent in performing such duties. Whenever specifically authorized or approved by the committee, an alternate member shall be reimbursed for reasonable expenses necessarily incurred by him in attending committee meetings and shall receive compensation at the rate provided in this section, notwithstanding that the committee member for whom he serves as alternate also attends such meetings.

[19 F.R. 1742, Mar. 31, 1954, as amended at 21 F.R. 4393, June 22, 1956, 27 F.R. 10089, Oct. 13, 1962]

§ 908.32 Annual review and meeting.

The committee shall, as soon as practicable after the marketing of the crop is

completed, prepare and mail an annual report to the Secretary and to each handler and grower of record. This annual report shall contain at least: (a) A complete review, by prorate districts, of the regulatory operations during the marketing year, as conducted under the marketing policy established pursuant to § 908.50(a); (b) an appraisal of the effect of such regulatory operations upon the competitive status of the Valencia orange industry; (c) recommendations for changes in the program; and (d) notice of the time and place of an open meeting, to be held as soon as practicable after the mailing of the annual report, to review the whole record of the operations of this part.

[19 F.R. 1742, Mar. 31, 1954, as amended at 21 F.R. 4393, June 22, 1956]

§ 908.33 Research and development.

The committee, with the approval of the Secretary, may establish or provide for the establishment of marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of Valencia oranges, the expense of such projects to be paid from funds collected pursuant to this part.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674) [27 F. R. 10089, Oct. 13, 1962]

EXPENSES AND ASSESSMENTS

§ 908.40 Expenses.

The committee is authorized to incur such expenses as the Secretary finds may be necessary to enable the committee to exercise its powers and perform its duties in accordance with the provisions of this part during each fiscal year.

§ 908.41 Assessments.

(a) Each person who first handles oranges shall, with respect to the oranges so handled by him, pay to the committee, upon demand, such person's pro rata share of the expenses which the Secretary finds are necessary during each fiscal year. Each such person's share of such expenses shall be equal to the ratio between the total quantity of such oranges handled by him as the first handler thereof during the applicable fiscal year, and the total quantity of such oranges so handled by all persons during the same fiscal year. The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) The Secretary shall fix the rate of assessment to be paid by each such person. At any time during or after the fiscal year, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expense which may be incurred. Such increase shall be applied to all oranges handled during the applicable fiscal year. In order to provide funds for the administration of the provisions of this part, the committee may accept the payment of assessments in advance, and may borrow money in any amount not to exceed 10 percent of the estimated expenses set forth in its budget for the then current fiscal year.

(c) The committee may, with the approval of the Secretary, maintain a suit in its own name, or in the names of its members, to enforce the payment of assessments levied under this section.

§ 908.42 Accounting.

(a) If, at the end of a fiscal year, the assessments collected are in excess of the expenses incurred, each person entitled to a proportionate refund of the excess assessments shall be credited with such refund against the operations of the following fiscal year. Any handler may demand payment of such a refund, and the refund shall be paid to him: *Provided,* That any sum paid by a person in excess of his pro rata share of the expenses during any fiscal year may be applied by the committee at the end of such fiscal year to any outstanding obligations due the committee from such person.

(b) All funds received by the committee pursuant to the provisions of this subpart shall be used solely for the purposes specified in this part, and shall be accounted for in the manner provided in this part. The Secretary may, at any time, require the committee and its members to account for all receipts and disbursements.

REGULATION

§ 908.50 Marketing policy.

(a) Prior to the recommendation for regulation for each prorate district, the committee shall submit to the Secretary its marketing policy for the ensuing season. Such marketing policy shall contain the following information: (1) The

available crop of oranges in the prorate district, including estimated quality and composition of sizes; (2) the estimated utilization of the crop, showing the quantity and percentages of the crop that will be marketed in domestic, export, and by-product channels, together with quantities otherwise to be disposed of; (3) a schedule of estimated weekly shipments to be recommended to the Secretary during the ensuing season; (4) available supplies of competitive oranges in all producing areas of the United States; (5) level and trend of consumer income; (6) estimated supplies of competitive citrus commodities; and (7) any other pertinent factors bearing on the marketing of oranges. In the event that it becomes advisable substantially to modify such marketing policy, the committee shall submit to the Secretary a revised marketing policy setting forth the information as required in this paragraph.

(b) All meetings of the committee held for the purpose of formulating such marketing policies shall be open to growers and handlers. The committee shall give notice to growers by publication of notice of such meetings in such newspapers as they deem appropriate and shall advise all handlers by mail of such meetings.

(c) The committee shall transmit a copy of each marketing policy report or revision thereof to the Secretary and to each grower and handler who files a request therefor. Copies of all such reports shall be maintained in the office of the committee where they shall be available for examination by growers and handlers.

§ 908.51 Recommendations for volume regulation.

(a) The committee may recommend to the Secretary the total quantity of oranges which it deems advisable to be handled during the next succeeding week in each prorate district. If, for any reason, the committee recommends the issuance of volume regulation but fails to recommend to the Secretary the total quantity of oranges which it deems advisable to be handled during the next succeeding week in each prorate district, reports representing the respective views of the committee members with respect to its failure to act shall be submitted to the Secretary.

(b) In making its recommendations, the committee shall give due consideration to the following factors: (1) Market prices for oranges, including market prices by grades and sizes; (2) supply of oranges on track at, and en route to, the principal markets; (3) supply, maturity, and condition of oranges in the area of production, including the grade and size composition thereof; (4) market prices and supplies of citrus fruits from California, Arizona, and competitive producing areas, and supplies of other competitive fruits; (5) trend and level in consumer income; and (6) other relevant factors.

(c) At any time during a week for which the Secretary, pursuant to § 908.52, has fixed the quantity of oranges which may be handled, the committee may recommend to the Secretary that such quantity be increased for such week. Each such recommendation, together with the committee's reasons for such recommendation, shall be submitted promptly to the Secretary.

§ 908.52 Issuance of volume regulation.

Whenever the Secretary shall find, from the recommendations and information submitted by the committee, or from other available information, that to limit the quantity of oranges which may be handled in each prorate district during a specified week will tend to effectuate the declared policy of the act, he shall fix such quantity. Such regulation may be made effective, as authorized by the act, irrespective of whether the season average price for Valencia oranges is in excess of the parity price specified therefor in the act. The quantity so fixed may be increased by the Secretary at any time during such week.

[19 F.R. 1742, Mar. 31, 1954, as amended at 21 F.R. 4393, June 22, 1956]

§ 908.53 Prorate bases.

(a) Each person who has oranges available for current shipment and who desires to handle such oranges, shall submit to the committee, at such time and in such manner as may be designated by the committee, and upon forms made available by it, a written application for a prorate base and for allotments as provided in this part.

(b) Such application shall be substantiated in such manner and shall be supported by such evidence as the committee may require, and shall include at least (1) the name and address of the producer or duly authorized agent, if any, for each grove or portion thereof, the

fruit of which is included in the quantity of oranges available for current shipment by the applicant; (2) an accurate description of the location of each such grove or portion thereof, including the number of acres contained therein; and (3) an estimate of the total quantity of oranges available for current shipment by the applicant in terms of the unit of measure designated by the committee.

(c) Such application shall include only such oranges available for current shipment which the applicant controls (1) by a bona fide written contract giving the applicant authority to handle such oranges, or (2) by having legal title or possession thereof, or (3) by having executed a bona fide written agreement to purchase such oranges. If an applicant controls oranges pursuant to subparagraphs (1) or (3) of this paragraph, he shall submit a copy of each type of such contract or agreement to the committee, together with a statement that no other types of contracts or agreements are used, and shall maintain a file of all original contracts evidencing such control which shall be subject to examination by the committee.

(d) If the quantity of oranges available for current shipment by any person is increased or decreased by the acquisition or loss of the control required by paragraph (c) of this section, such person shall submit promptly a report thereon to the committee upon forms made available by it, which report shall be verified in such manner as the committee may require.

(e) If any person gains or loses the control of oranges required by paragraph (c) of this section, there shall be a corresponding increase or decrease in the quantity of oranges available for current shipment by such person. If it is determined by the committee that any person who has lost the control of oranges required by paragraph (c) of this section has handled a quantity of such oranges less than the quantity that could have been handled under the allotments issued thereon, the quantity of oranges available for current shipment by such person shall be adjusted by deducting therefrom, over such period as may be determined by the committee, a quantity of oranges equivalent to the quantity upon which allotments were issued but which were not utilized thereon; and, in the event the change in control of oranges is occasioned by a bona fide transfer of the ownership of the real property on which such oranges were produced, the person gaining the control of such oranges shall have his quantity of oranges available for current shipment adjusted by adding thereto a quantity of oranges equal to that which is so deducted.

(f) The committee shall determine the accuracy of the information submitted pursuant to this section. Whenever the committee finds that there is an error, omission, or inaccuracy in any such information, it shall correct the same and shall give the person who submitted the information a reasonable opportunity to discuss with the committee the factors considered in making the correction. If it is determined that an error, omission, or inaccuracy has resulted in the establishment of a smaller or a larger quantity of oranges available for current shipment than that to which a person was entitled under this part, such quantity shall be increased or decreased, over such period as may be determined by the committee, by an amount necessary to correct the error, omission, or inaccuracy.

(g) Each week during the marketing season when volume regulation is likely to be recommended the committee shall compute, with respect to each prorate district, the total quantity of oranges available for current shipment by each person who has applied for a prorate base and for allotments. On the basis of such computation, the committee shall fix a prorate base for each person who is entitled thereto. Such prorate base shall represent the ratio between the total quantity of oranges available for current shipment in the particular prorate district by such applicant and the total quantity of oranges available for current shipment in such district by all such applicants. The committee shall notify the Secretary of the prorate base fixed for each person and shall notify each such person of the prorate base fixed for him.

[19 F.R. 1742, Mar. 31, 1954, as amended at 21 F.R. 4393, June 22, 1956]

§ 908.54 Allotments.

Whenever the Secretary has fixed the quantity of oranges which may be handled during any week in a prorate district, the committee shall calculate the quantity of oranges which may be handled by each person during such week. The said quantity shall be the allotment of such person and shall be in an amount

equivalent to the product of the prorate base for such person and the total quantity of oranges grown in such prorate district and fixed by the Secretary as the total quantity of oranges which may be handled during such week. The committee shall give reasonable notice to each person of the allotment computed for him pursuant to this part.

§ 908.55 Overshipments.

During any week for which the Secretary has fixed the total quantity of oranges which may be handled, any person who has received an allotment for such week, and whose total allotment is not loaned, or is not required for the repayment of an allotment loan or as a deduction for a prior overshipment, may handle in addition to his allotment an amount of such oranges equivalent to 10 percent of his allotment, or one carload, whichever is the greater. The quantity of oranges so handled in excess of each such person's allotment (but not exceeding an amount equivalent to the excess shipments permitted under this section) shall be deducted from each such person's allotment for the next week: *Provided,* That no such deduction shall apply when such quantity is handled pursuant to early maturity allotment issued under § 908.60. If such person's allotment for such week is in an amount less than the excess shipments permitted under this section, the remaining quantity shall be deducted from succeeding weekly allotments issued to such person until such excess has been entirely offset: *Provided,* That no overshipment incurred during a marketing year shall be deducted from allotments issued during the following marketing year.

[19 F.R. 1742, Mar. 31, 1954, as amended at 21 F.R. 4393, June 22, 1956, 27 F.R. 10089, Oct. 13, 1962]

§ 908.56 Undershipments.

If any person handles during any week a quantity of oranges, covered by a regulation issued pursuant to § 908.52, in an amount less than his allotment of oranges for such week, he may handle, in addition to his allotment for the next week only, a quantity of such oranges equivalent to such undershipment except that the undershipment of early maturity allotment shall not entitle a handler to so handle an additional quantity of oranges.

[19 F.R. 1742, Mar. 31, 1954, as amended at 27 F.R. 10089, Oct. 13, 1962]

§ 908.57 Allotment loans.

(a) A person to whom allotments have been issued, whether under the provisions of short life, or general maturity, may lend such allotments to other persons within the same prorate district to whom allotments have also been issued: *Provided,* That allotments issued under the short life provisions of this subpart may be loaned only to other persons to whom such allotments have also been issued. Such loans shall be confirmed to the committee by both parties thereto within 48 hours after any such agreement has been entered into, and such agreements shall include a date for the repayment of such allotments to the lender during the then current marketing year. If, on the date of repayment specified in the loan agreement, the borrower has insufficient allotment to repay such loan, he shall repay such loan as soon after the repayment date as he has allotments available to him for that purpose: *Provided,* That no loans made during a marketing year shall be required to be repaid from allotments issued during the following marketing year.

(b) The committee may act on behalf of persons desiring to arrange allotment loans. In each case, the committee shall confirm all such transactions immediately after the completion thereof by memorandum addressed to the parties concerned, which memorandum shall be deemed to satisfy the requirements of paragraph (a) of this section as to a confirmation of the loan agreement to the committee.

(c) An allotment shall be loaned, pursuant to paragraph (a) of this section for use only during the week for which such allotment was issued. Persons securing repayment of an allotment loan may use such allotment only during the week in which the repayment is made.

(d) No allotment which has been loaned may again be loaned by the borrower, or by the lender after the repayment thereof.

(e) No allotment may be loaned from one handler to another when such loan is brought about by the payment of a consideration.

[19 F.R. 1742, Mar. 31, 1954, as amended at 21 F.R. 4393, June 22, 1956, 27 F.R. 10089, Oct. 13, 1962]

§ 908.58 Assignment of allotment certificates.

In connection with all handling of oranges other than shipments by rail car, each handler who first handles oranges shall at the time of handling issue to the consignee thereof, or his agent, an assignment of allotment certificate covering each quantity of oranges so handled. Such assignment of allotment certificate shall be on such forms and shall be issued in such manner as prescribed by the committee and shall contain such information as the committee may require.

§ 908.59 Priority of allotments.

During any week in which a person receives an allotment, and has the right to handle a quantity of oranges in addition to the quantity represented by his allotment, by reason of (a) an undershipment of an allotment, pursuant to § 908.56; or (b) the repayment of a loaned allotment, pursuant to § 908.57; or (c) a borrowed allotment, pursuant to § 908.57; and such person handles a quantity of oranges which is less than the total quantity of such oranges which such person may handle during such week, the amount of such oranges handled shall first apply to such person's current weekly allotment (or to that portion which is not used pursuant to § 908.55 or § 908.57). The remainder, if any, shall be applied in the following order; second, to any undershipment of allotments, pursuant to § 908.56; third, to any allotment repaid to him, pursuant to § 908.57; fourth, to any allotment borrowed, pursuant to § 908.57.

§ 908.60 Early maturity allotments.

Notwithstanding the provisions of § 908.54 the committee shall, prior to the reaching of general maturity, issue special allotments for the handling of early maturity oranges. Handlers controlling early maturity oranges may apply to the committee for such allotments on forms prescribed by the committee and shall furnish to the committee such information as it may require. On the basis of all available information and after consideration of all of the factors enumerated in § 908.51(b), the committee shall determine the extent to which early maturity allotment shall be granted. Total early maturity allotments approved by the committee for each prorate district shall be distributed to all handlers who qualify therefor in proportion to the quantity requested by each handler in his application. Early maturity allotments issued to any handler may be used only during the week for which issued, and the undershipment of any such allotment shall not entitle such handler to handle an additional quantity of oranges due to such undershipment. Upon the reaching of general maturity, the quantity of oranges available for current shipment of any handler who failed to use all of the early maturity allotments issued to him shall be adjusted by deducting therefrom a quantity of oranges equivalent to the total quantity of his oranges for which early maturity allotments were issued but were not used. A person to whom early maturity allotments have been issued may, after approval by the committee, transfer such allotments to other persons to whom such allotments also have been issued: *Provided,* That, upon such transfer of allotment, the transferee shall be obligated to use the transferred allotment during the week for which it was issued and if he fails to do so shall have his oranges available for current shipment adjusted in the same manner as if the transferred allotment had been issued to him by the committee. The committee shall, with the approval of the Secretary, adopt procedural rules and regulations to effectuate the provisions of this part. Early maturity allotments issued, and any transfer thereof, under this section shall be on a prorate district basis."

[19 F.R. 1742, Mar. 31, 1954, as amended at 27 F.R. 10089, Oct. 13, 1962]

§ 908.61 Short life allotments.

Notwithstanding the provisions of § 908.54 the committee shall withhold from the allotment of handlers on a uniform proportionate basis for all handlers, an amount sufficient to permit handlers controlling oranges of short life to handle during the normal marketing period of such short life oranges as large a proportion of oranges as the average which will be handled by all handlers. Handlers controlling oranges of short life may apply for such withheld allotment, and such application shall be made on forms supplied by the committee and shall be accompanied by information necessary to permit the committee to determine the validity of such applicant's claim to allotment. The committee shall determine, on the basis of all available information, the extent to

which a handler needs allotment under the provisions of this section and pursuant to such determination shall allocate such allotment to such handler at a uniform weekly rate, insofar as practicable, during the normal marketing period of his short life oranges. Such determination and allotment issued pursuant thereto shall not permit a handler to receive more allotment proportionately than the average allotment to be issued to all handlers of oranges. After a handler of short life oranges has received allotment sufficient to make the total allotment issued to him equal proportionately to the average allotment to be issued to all handlers of oranges, allotment thereafter due such handler of short life oranges shall be allocated to handlers from whom allotment has been withheld. Short life allotments may be used only in the handling of short life oranges. The committee shall, with the approval of the Secretary, adopt procedural rules and regulations to effectuate the provisions of this subpart. Allotments issued and allocated under this section shall be on a prorate district basis.

§ 908.62 Information to central marketing organizations.

The committee shall give any central marketing organization, upon its request, the same notice with respect to prorate bases and allotments applicable to each handler for whom it markets oranges as is given to such handler.

§ 908.63 Recommendations for size regulation.

(a) Whenever the committee finds that the supply and demand conditions for sizes of oranges make it advisable to regulate the handling of sizes of oranges during any period, it shall recommend to the Secretary the sizes of oranges grown in each prorate district which it deems advisable to be handled during said period. The committee shall promptly submit such findings and recommendations, together with supporting information to the Secretary.

(b) In making its recommendations the committee shall give due consideration to the factors referred to in § 908.51(b).

§ 908.64 Issuance of size regulation.

Whenever the Secretary shall find, from the findings, recommendations, and information submitted by the committee, or from other available information, that to limit the handling of oranges grown in any prorate district or districts by sizes would tend to effectuate the declared policy of the act, he shall fix the sizes of oranges grown in each such prorate district which may be handled during the specified period. When any such size regulation restricts the handling of a portion of a specified size, the quantity of such size that may be handled by a handler during a particular week shall be established as a percentage of (a) the weekly allotment issued to such handler when volume regulation is in effect, and (b) the total weekly volume handled by such handler when volume regulation is not in effect. The committee shall be informed immediately of any such regulation issued by the Secretary, and the committee shall promptly give adequate notice thereof to all handlers. [19 F.R. 1742, Mar. 31, 1954, as amended at 21 F.R. 4393, June 22, 1956]

§ 908.65 Exemptions from size regulation.

In the event the handling of oranges is limited pursuant to § 908.64, the committee shall issue one or more exemption certificates to any producer who furnishes evidence satisfactory to the committee that he will be prevented by reason of such regulation from having as large a proportion of his oranges handled as the average proportion of oranges which may be handled by all other producers in the same prorate district. Such exemption certificate shall permit the respective producer to whom the certificate is issued to handle or have handled a percentage of his oranges equal to the percentage determined as aforesaid. Shipments of oranges under exemption certificates issued pursuant to this section shall be subject to and limited by such regulations as may be effective under § 908.52 at the time of the respective shipment. The committee shall adopt, with the approval of the Secretary, procedural rules by which such exemption certificates will be issued to producers. Such exemption certificates may be transferred to handlers when accompanied by oranges covered by such certificates.

§ 908.66 Prorate districts.

For purposes of administration of this part and in recognition of the fact that there are general differences in maturity and keeping quality of oranges between

certain geographical sections of the production area, the production area shall be divided in three prorate districts as follows:

(a) District 1 shall include that part of the State of California which is south of a line drawn due east and west through the Post Office in Turlock, California, and north of a line drawn due east and west through the Post Office in Gorman, California, but excluding San Luis Obispo and Santa Barbara Counties and that part of San Bernardino County located east of the 115th Meridian.

(b) District 2 shall include that part of the State of California which is south and west of District 1, and west of a line drawn due north and south through the Post Office in White Water, California.

(c) District 3 shall include the State of Arizona and that part of the production area not included in Districts 1 and 2.

[19 F.R. 1742, Mar. 31, 1954, as amended at 27 F.R. 10089, Oct. 13, 1962]

§ 908.67 Oranges not subject to regulation.

Except as otherwise provided in this section, nothing contained in this subpart shall be construed to authorize any limitation of the right of any person to: (a) Handle oranges to charitable institutions for consumption by such institutions or for distribution by relief agencies; (b) handle oranges to commercial processors for processing into products, including juice; (c) export or

Except as otherwise provided in this section, nothing contained in this subpart shall be construed to authorize any limitation of the right of the initial handler of oranges to: (a) Handle oranges to charitable institutions for consumption by such institutions or to relief agencies for distribution by such agencies; (b) handle oranges to commercial processors for processing into products, including juice; (c) export oranges or handle oranges to exporters for export purposes; (d) handle oranges by parcel post or by railway express; or (e) handle oranges in such minimum quantities or in such types of shipments as the committee may, with the approval of the Secretary, prescribe. No assessment shall be levied pursuant to § 908.41 on oranges disposed of for any of the purposes specified in this section. The committee shall prescribe, with the approval of the Secretary, such rules, regulations, and safeguards as it may deem necessary to prevent oranges disposed of under the provisions of this section from entering into commercial channels of trade contrary to or in violation of this part.

[19 F.R. 1742, Mar. 31, 1954, as amended at 27 F.R. 10089, Oct. 13, 1962]

REPORTS

§ 908.70 Weekly report.

On or before such day of each week as may be designated by the committee, each handler shall report to the committee, in such manner as may be designated and on forms made available by it, the following information with respect to the total of all oranges disposed of by each such handler during the immediately preceding week: (a) The total quantity handled; (b) the total quantity disposed of for manufacture into by-products, showing the identity of each by-product processor involved and the quantity of each; (c) the total quantity disposed of for export, showing the destination and quantity of each such disposition; (d) the total quantity shipped for disposition to persons on relief, including quantities donated for charitable purposes; (e) the total quantity shipped by parcel post or express, showing the destination and quantity of each such shipment; and (f) the total quantity disposed of otherwise, showing the manner and quantity of each such disposition.

§ 908.71 Manifest report.

Each handler shall furnish to the committee information regarding the size of oranges in each carton handled by such handler and shall mail or deliver such information to said committee or its duly authorized representative within 24 hours after shipment is made in such manner as the committee shall prescribe and upon forms prepared by it.

[19 F.R. 1742, Mar. 31, 1954, as amended at 21 F.R. 4393, June 22, 1956]

§ 908.72 Other reports.

Upon request of the committee, made with the approval of the Secretary, every person subject to regulation under this part shall furnish to the committee, in such manner and at such times as it may prescribe, such other information as will enable the committee to perform its duties under this part.

MISCELLANEOUS PROVISIONS

§ 908.80 Compliance.

Except as provided in this part, no person shall handle oranges during any week in which a regulation issued by the Secretary pursuant to § 908.52 is in effect, unless such oranges are, or have been, handled pursuant to an allotment therefor, or unless such person is otherwise permitted to handle such oranges under the provisions of this part; and no person shall handle oranges except in conformity with the provisions of this subpart and the regulations issued under this part.

§ 908.81 Right of the Secretary.

The members of the committee (including successors and alternates), and all agents, employees, or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each and every regulation, decision, determination, or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary. If the committee, for any reason, fails to perform its duties or exercise its powers under this subpart, the Secretary may designate another agency to perform such duties and exercise such powers.

§ 908.82 Effective time.

The provisions of this part shall become effective at such time as the Secretary may declare above his signature to this part, and shall continue in force until terminated in one of the ways specified in § 908.83.

§ 908.83 Termination.

(a) The Secretary may at any time terminate the provisions of this part by giving at least one day's notice by means of a press release or in any other manner which he may determine.

(b) The Secretary shall terminate or suspend the operation of any and all of the provisions of this part whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(c) (1) The Secretary shall terminate the provisions of this part at the end of any marketing year, whenever he finds that continuance is not favored by producers; but such termination shall be effective only if announced on or before January 15 of the then current marketing year.

(2) To determine whether continuance is favored by producers, the required percentages set forth in the act with respect to producer approval of the issuance of a marketing order regulating the handling of citrus fruits produced in any area producing what is known as California citrus fruits (approval by three-fourths of the producers who, during a representative period, determined by the Secretary, have been engaged, within the production area in the production of Valencia oranges for market; or by producers who, during such representative period, have produced for market at least two-thirds of the volume of Valencia oranges produced within the production area for market) shall be used. In the event that a referendum is utilized to aid in making this determination, such required percentages for continuance shall be held to be complied with if, of the total number of producers, or the total volume of Valencia oranges produced for market, as the case may be, represented in such referendum, the percentage favoring continuance is equal to or in excess of the percentage required.

(3) Upon recommendation of the committee, received not later than August 15 of an even numbered year, the Secretary shall conduct a referendum prior to October 15 of such year to ascertain whether continuance of this part is favored by producers.

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

[19 F.R. 1742, Mar. 31, 1954, as amended at 27 F.R. 10089, Oct. 13, 1962]

§ 908.84 Proceedings after termination.

(a) Upon the termination of the provisions of this part, the committee shall, for the purpose of liquidating the affairs of the committee, continue as trustees of all the funds and property then in its possession or under its control, including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The said trustees shall (1) continue in such capacity until discharged by the Secretary; (2) from time to time account for all receipts and disburse-

ments and deliver all property on hand, together with all books and records of the committee and of the trustees, to such person as the Secretary may direct; and (3) upon the request of the Secretary execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the committee or the trustees pursuant thereto.

(c) Any person to whom funds, property, or claims have been transferred or delivered, pursuant to this section, shall be subject to the same obligation imposed upon the committee and upon the trustees.

§ 908.85 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this part or of any regulation issued pursuant to this part, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this part or any regulation issued under this part, or (b) release or extinguish any violation of this part or of any regulation issued under this part, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

§ 908.86 Duration of immunities.

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

§ 908.87 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States, or name any agency or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this part.

§ 908.88 Derogation.

Nothing contained in this part is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States (a) to exercise any powers granted by the act or otherwise, or (b) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 908.89 Personal liability.

No member or alternate member of the committee and no employee or agent of the committee shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, employee, or agent, except for acts of dishonesty, willful misconduct, or gross negligence.

§ 908.90 Separability.

If any provision of this subpart is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this part or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

Subpart—Rules and Regulations

DEFINITIONS

§ 908.100 Definitions.

(a) "Rules and regulations" means the provisions of this subpart.

(b) "Order No. 908" means the order (§§ 908.1 to 908.90) regulating the handling of Valencia oranges grown in Arizona and a designated part of California as from time to time amended.

(c) Except as otherwise prescribed in this subpart, terms used in the rules and regulations shall have the same meaning as when used in Order No. 908 (§§ 908.1 to 908.90).

(d) "Commercial processing into byproducts" is synonymous with "Commercial processing into products, including juice" and means the processing of oranges on a commercial scale into products. The term includes the processing of oranges into juice only when such juice is extracted on a commercial scale primarily for sale at the wholesale level.

(e) Pursuant to § 908.18, the quantity of oranges comprising a carload, as such term is therein defined, is hereby increased from a quantity of oranges equivalent to 924 cartons of oranges to a quantity of oranges equivalent to 1,000 cartons or oranges.

[19 F.R. 3214, June 2, 1954, as amended at 24 F.R. 9183, Nov. 11, 1959. Redesignated at 26 F.R. 12751, Dec. 30, 1961]

GENERAL

§ 908.101 Communications.

Unless otherwise prescribed in this subpart or in Order No. 908 (§§ 908.1 to 908.90), or required by the Valencia Orange Administrative Committee, all reports, applications, submittals, requests, and communications in connection with Order No. 908 shall be addressed as follows:

Valencia Orange Administrative Committee, 117 West Ninth Street, Room 105, Los Angeles 15, Calif.

[19 F.R. 3215, June 2, 1954. Redesignated at 26 F.R. 12751, Dec. 30, 1961]

§ 908.102 Nomination procedure.

(a) The time of nominating grower and handler members and alternate members of the committee shall be not later than 20 days preceding the date of expiration of the terms of the members and alternate members of the committee, except that the time of nominating the grower and handler initial members and alternate members shall not be later than 30 days after the effective date of this subpart. The manner of nominating members and alternate members of said committee shall be as follows:

(1) Any cooperative marketing organization which handled more than 50 percent of the total volume of Valencia oranges handled during the marketing year in which nominations for members and alternate members of the committee are submitted by such organization shall, by resolution adopted by its board of directors, nominate members and alternate members as provided in § 908.22(b).

(2) A meeting shall be held at such time and place as may be designated by the agent of the Secretary, at which all cooperative marketing organizations which market Valencia oranges, and which are not qualified under § 908.22 (b), or the growers affiliated therewith, shall nominate members and alternate members, as provided in § 908.22(c). The vote of each such organization shall be weighted, as provided in § 908.22(e), by the quantity of oranges which it handled during the marketing year in which such nominations are made.

(3) Not less than seven meetings shall be held at such times and places throughout the production area as may be designated by the agent of the Secretary, at which growers who are not members of, or affiliated with, the organizations included under subparagraphs (1) and (2) of this paragraph may vote. At each such meeting, the growers present shall nominate not less than two grower members, two alternate grower members, one handler member, and one alternate handler member. The number of ballots to be cast in selecting the nominees at each meeting shall be determined at the respective meeting. All growers voting at any such meeting shall submit their names and addresses to the agent of the Secretary.

(4) The agent of the Secretary shall give adequate notice of each meeting to be held pursuant to this section.

[19 F.R. 1748, Mar. 31, 1954, as amended at 22 F.R. 9741, Dec. 6, 1957. Redesignated at 26 F.R. 12751, Dec. 30, 1961]

§ 908.103 Changes in nomination and selection of grower members and alternate grower members of the Valencia Orange Administrative Committee.

(a) The number of grower members and alternate grower members to be nominated and selected pursuant to § 908.22(c) and the second sentence of § 908.23, respectively, shall be one grower member and one alternate grower member.

(b) The number of grower members and alternate grower members to be nominated and selected pursuant to § 908.22(d) and the third sentence of § 908.23, respectively, shall be two grower members and two alternate grower members.

[22 F.R. 9741, Dec. 6, 1957. Redesignated at 26 F.R. 12751, Dec. 30, 1961]

STORAGE OF ORANGES WITHIN PRODUCTION AREA

§ 908.105 Oranges stored within the production area.

Any person who has oranges available for current shipment and controls such oranges within the meaning of § 908.53 may place such oranges in storage within the production area. Thereafter, such person shall, except with respect to oranges stored where prepared for market, report to the committee, on V.O.A.C. Form No. 17, not later than Monday noon of the next calendar week, all oranges so stored.

[19 F.R. 3215, June 2, 1954. Redesignated at 26 F.R. 12751, Dec. 30, 1961]

PRORATE BASES AND ALLOTMENTS

SOURCE: §§ 908.110 to 908.114 appear at 19 F.R. 3215, June 2, 1954, except as otherwise noted. Redesignated at 26 F.R. 12751, Dec. 30, 1961.

§ 908.110 Prorate bases and allotments.

(a) *Application to be filed.* Each person who has oranges available for current shipment and desires to handle such oranges shall submit to the committee upon request, on V.O.A.C. Form No. 1, an application for a prorate base and allotments. Such application shall contain the information required pursuant to § 908.53(b) and (c) and a certification to the United States Department of Agriculture and the Valencia Orange Administrative Committee as to its truthfulness. In addition, such application shall be supported by a list of growers, on V. O. A. C. Form 1-A, whose oranges the applicant controls, showing for each listed grower's oranges, the name and address of the grower and the location, acreage and estimated yield of each grove or portion thereof.

(b) *Control of oranges.* In order to control oranges within the meaning of § 908.53(c)(1) or (3), the applicant must have executed the requisite bona fide written agreement with a grower, which shall contain all of the basic requirements of a legal contract, including, but not being limited to, the requirements of this paragraph.

(1) The agreement shall be supported by legal consideration, such as mutual promises, which may be enforced by either party in an action at law.

(2) The agreement shall be certain as to its parties, the quantity of oranges involved, and the amount to be received for the fruit. The agreement will be deemed sufficiently definite (i) as to the quantity of fruit if it specifies all the oranges of a described acreage, and (ii) as to the amount to be received for the fruit if it specifies a definite amount or sets forth a definite method of determining the amount to be paid.

(3) The agreement shall have been entered into by both parties in good faith. The purpose of the agreement must be to give absolute control of the oranges to the applicant; and any such agreement which (i) has as its primary purpose the giving of the prorate base and allotment to the applicant, or (ii) is subject to some other written or oral agreement or understanding altering its terms, or (iii) is subject to an oral or written agreement or understanding that neither of the parties will enforce the agreement, or (iv) contains a statement which permits termination thereof without legal liability, will be considered evidence of lack of good faith.

(4) The agreement shall give the applicant control of the oranges for such period of time as may be necessary to handle the oranges.

(c) *Change in control of oranges occasioned by transfer of real property.* In the event a change in control of oranges is occasioned by a bona fide transfer of the ownership of the real property on which such oranges were produced, the person gaining the control shall request the committee to make the adjustment prescribed in § 908.53 (e). Such request shall set forth the names of the parties to the transfer, and be accompanied by a legal description of the real property transferred, the name of the county, the book, page number and date showing that such transfer has been duly recorded. The request shall also set forth the name of the person losing control of the oranges. Upon determination by the committee that the change in control of the oranges has been occasioned by such transfer, the quantity of oranges available for current shipment of the person gaining such control shall be adjusted by adding thereto a quantity of oranges equal to the quantity deducted from the oranges available for current shipment of the person losing control of such oranges. Such quantity shall be added during the same periods in which the deductions are effected in accordance with the provisions of paragraph (d) of this section.

(d) *Loss of control of oranges.* If a person loses control of oranges and has handled a quantity thereof less than the quantity that could have been handled under allotments issued thereon, the quantity of oranges available for current shipment by such person shall be adjusted by deducting therefrom a quantity of oranges equivalent to the quantity upon which allotments were issued, but which were not utilized thereon. The quantity so determined shall be deducted during a period of 3 consecutive weeks in Prorate District 1, 4 consecutive weeks in Prorate District 2, and 3 consecutive weeks in Prorate District 3 (or during the remainder of the applicable marketing season for the respective prorate dis-

trict if of shorter duration than the period designated for such district): *Provided,* That, insofar as practicable, such deduction for any weekly period shall not exceed the amount which would decrease by one-half the allotment, other than short-life allotment, that otherwise would be issued to such person for such weekly period in the absence of such deduction, and, if necessary to effect this requirement, the applicable period specified in this section for making such deductions may be extended.

(e) *Adjustment of prorate bases.* (1) The prorate bases of handlers shall be adjusted to correct errors, omissions, or inaccuracies, as provided in this part, during a period of 3 consecutive weeks in Prorate District 1, 4 consecutive weeks in Prorate District 2, and 3 consecutive weeks in Prorate District 3 (or during the remainder of the applicable marketing season for the respective district if of shorter duration than the period designated for such district): *Provided,* That, insofar as practicable, such deduction for any weekly period shall not exceed the amount which would decrease by one-half the allotment, other than short-life allotment, that otherwise would be issued to such person for such weekly period in the absence of such deduction, and, if necessary to effect this requirement, the applicable period specified in this section for making such deductions may be extended.

(2) When a handler has moved all of the oranges under his control in a particular district and has received allotment sufficient to repay all loans of allotments received by him under the provisions of § 908.57, such handler shall receive no further allotment for such oranges unless, during the same marketing season, he subsequently gains control of oranges, in the same district, which he desires to handle and promptly submits a report thereon to the committee in accordance with § 908.53(d).

[19 F.R. 3215, June 2, 1954, as amended at 21 F.R. 6084, Aug. 15, 1956]

§ 908.111 Allotment loans.

Loan transactions shall be subject to the following:

(a) *Payback date.* Each allotment loan agreement entered into by a handler must provide for a definite payback date during the actual shipping period of the lending handler.

(b) *Loans to handlers who receive short-life allotments.* Each loan agreement entered into by a handler to whom short-life allotments have been issued shall provide for the repayment of the loan at or prior to the time when such handler will have been issued total allotment equal to the average to be issued to all handlers in the same prorate district.

(c) *All oranges moved prior to payback date.* If prior to the payback date specified in any of his loan agreements the borrowing handler has moved all his oranges, the loans shall thereupon become immediately repayable, and thereafter allotments shall continue to be issued to the borrowing handler until all his outstanding loan obligations have been met.

(d) *Confirmation.* All allotment loans made on Saturday shall be confirmed as required by § 908.57 but not later than 5:00 p. m., Monday of the immediately succeeding week.

§ 908.112 Assignment of allotment certificates.

In connection with all handling of oranges other than shipments by rail car, each handler at the time of handling of each lot of oranges shall issue to the purchaser or consignee an assignment of allotment certificate covering each quantity of oranges so handled. Such assignment of allotment certificate shall be on V.O.A.C. Form No. 8 and shall contain the following information: (a) Current weekly regulation period; (b) name and address of purchaser or consignee; (c) quantity of oranges in terms of the number of cartons of oranges; (d) prorate district in which such oranges were produced; (e) name and address of the person to whom such oranges were delivered; (f) the license number of the truck transporting such oranges from handler's place of business; (g) the size of the oranges; (h) the date of issue; and (i) the name of the person or firm issuing the assignment of allotment certificate. Such assignment shall also contain a certification to the United States Department of Agriculture and to the committee as to the truthfulness of the information shown thereon.

[19 F.R. 3215, June 2, 1954, as amended at 24 F.R. 3623, May 6, 1959]

§ 908.113 Early maturity allotments.

(a) *Applications to be filed.* On or before 12 o'clock noon of the day preceding the regular weekly meeting of the committee, any handler controlling early

maturity oranges who desires to receive allotment therefor for use during the following week must file with the committee, at any of its designated offices, an application on V. O. A. C. Form No. 9, showing the name and address of the applicant, the location of the early maturity oranges for which he desires allotment, by whom and to what extent tests of such oranges have been made to determine their maturity, the total quantity of such early maturity oranges available for shipment during the week for which the committee may make recommendations for regulation at the aforesaid meeting, the number of cartons of allotment desired, and such other information as the committee may from time to time request. An application for early maturity aliotment shall not exceed the total quantity of early maturity oranges the applicant has available for shipment.

[19 F.R. 3215, June 2, 1954, as amended at 24 F.R. 3623, May 6, 1959]

§ 908.114 Short life allotments.

(a) *Qualification for short-life allotment.* A handler shall be considered to have short-life oranges when he has oranges which historically are known to lack keeping qualities which will permit him to handle, during the normal marketing period for the oranges grown in the prorate district, the same proportion of his oranges as the average which will be handled by all handlers.

(b) *Application to be filed.* Each handler controlling short-life oranges who desires to obtain short-life allotments shall file with the committee, at the time of filing his application for a Prorate Base and Allotments, an application for such allotment on V. O. A. C. Form No. 10. The application shall contain the following information: Name and address of applicant; location of each grove having short-life oranges; a record covering a period of at least the ten immediately preceding years showing the marketing period of the oranges covered by the application; a suggested shortened marketing season showing the final date when the short-life oranges covered by the application would be marketed; and a showing satisfactory to the committee why the oranges controlled by the applicant cannot be marketed during the normal marketing period for the applicable district through appropriate adjustment within the handler's packinghouse.

EXEMPTION CERTIFICATES

§ 908.120 Exemptions from size regulation.

(a) *Application to be filed.* Each grower entitled to be exempted from the provisions of any size regulation established by the Secretary may file with the committee an application for an exemption certificate on V. O. A. C. Form No. 11. Such application must be received by the committee not later than Friday preceding the regular weekly meeting of the committee at which action is to be taken thereon and shall contain the following information: (1) Name and address of applicant; (2) location of oranges which the grower wishes covered by the exemption certificate; (3) the estimated sizes of the oranges contained in the applicant's groves and the percentage of each; (4) the size tests or other facts upon which such estimates are based, showing the number of oranges per tree tested and the total number of oranges tested per acre; (5) the number of cartons of oranges which applicant estimates will be needed to be exempted from size regulation to permit applicant to have handled the equivalent of the average that may be handled on behalf of all growers in the same prorate district; (6) the name of each packinghouse through which the applicant's oranges are to be handled.

(b) *Final dates for filing applications.* The committee may provide final dates for the filing of applications for exemptions from size regulations in each prorate district: *Provided,* That at least two weeks' advance notice shall be given to all handlers of the final date for each prorate district.

(c) *Investigation by Field Department.* Immediately upon receiving an application for an exemption certificate, the committee shall refer such application to its Field Department for investigation. The Field Department shall conduct an investigation and shall report its findings to the committee at its next regular meeting.

(d) *Determination by the committee.* If the committee determines that the information submitted in the application for an exemption certificate is inadequate, it may require the submission of additional information, including additional size tests. Based on all available information, the committee may authorize the issuance of a size exemption cer-

tificate, V. O. A. C. Form No. 12, which will permit the applicant to have as large a proportion of his oranges handled as the average proportion that will be handled for all other producers in the same prorate district. The percentage relation of a grower's restricted sizes to his total tree crop shall be used in determining the extent to which such grower is entitled to exemption from size regulation.

(e) *Exemption certificate.* If volume regulation is in effect at the time exemption certificates are issued, such exemption certificates may be used only to the extent that allotment has been issued under volume regulations for the oranges covered thereby. Exemption may be granted by issuing one or more exemption certificates and the initial certificate may be restricted to 75 percent of the estimated quantity to which a grower is entitled. Upon authorization of the committee, the manager shall issue to growers who have applied therefor, exemption certificates which shall contain the following information: (1) Name and address of person to whom issued; (2) location of grove or groves; (3) quantity of oranges of each size permitted to be handled without regard to the existing size regulation; and (4) period covered by the exemption certificate. The exemption certificate shall be issued in quadruplicate, one copy to be retained by the committee, and three copies to be issued to the grower. The grower shall endorse and turn over to the packinghouse, through which the oranges are to be handled, two copies. The packinghouse shall sign and immediately mail one copy to the committee. Exemption certificates issued hereunder may be used only for the handling of the oranges covered by the certificate. Each certificate shall be valid at any time during which the size regulation remains in effect and, subject to the handler's allotment under volume regulation, the total quantity of the oranges covered thereby, or any part thereof, may be shipped at one time.

[19 F.R. 3216, June 2, 1954, as amended at 24 F.R. 3623, May 6, 1959]

ORANGES NOT SUBJECT TO REGULATION

SOURCE: §§ 908.130 to 908.141 appear at 19 F.R. 3216, June 2, 1954, except as otherwise noted. Redesignated at 26 F.R. 12751, Dec. 30, 1961.

§ 908.130 Exemptions under § 908.67.

(a) The exemptions authorized by § 908.67 apply in any prorate district during any week for which the Secretary has not fixed the quantity of oranges which may be handled in such district. However, during any week for which the Secretary fixes the quantity of oranges which may be handled in such district, the exemptions apply only to such persons as are notified by the committee of the respective allotment computed for them and who directly handle the oranges for one of the specified purposes.

(b) With respect to any such person who packs oranges and straps and stencils or otherwise marks the container thereof for export purposes and forwards the oranges to the destination for export, such person shall be deemed to have handled the oranges for export within the meaning of the exemption.

§ 908.131 By-product oranges.

(a) *Notice to committee.* No person shall handle oranges for commercial processing into by-products unless (1) such oranges are, or have been, handled pursuant to an allotment therefor; (2) prior to each such handling, such person notifies the committee of the proposed handling and furnishes the committee with a statement executed by the intended processor of the oranges that the oranges will be used for the stated purpose only; or (3) the processor is an approved by-product manufacturer, as prescribed in paragraph (b) of this section.

(b) *Approved by-product manufacturers.* Any person who desires to buy, as an approved by-product manufacturer, oranges for commercial processing into by-products shall, prior thereto, submit to the committee an application on V. O. A. C. Form No. 14 which shall contain the following information: (1) Name and address of applicant; (2) proposed type of by-product to be made or derived from oranges; (3) approximate quantity of oranges used each month; (4) a statement that the oranges obtained for conversion into by-products will be used for that purpose only and will not be resold or disposed of in fresh fruit channels; and (5) an agreement to submit such reports as are required by the committee. Such application will be referred to the committee's Compliance Department for investigation. The Compliance Department shall make an investigation of such applicant and shall

report back to the committee at its next regular meeting. Based upon the report of the Compliance Department, and other available information, the committee shall approve or disapprove the application and notify the applicant accordingly. If the application is approved, the applicant's name shall be placed upon the list of approved by-product manufacturers.

(c) *Certificate by by-product manufacturers.* Upon request, each approved by-product manufacturer shall submit to the committee, on forms prescribed by the committee, on or before the 10th day of each month, a report of the Valencia oranges used during the preceding calendar month. Each report shall contain a certification to the United States Department of Agriculture and to the committee as to the truthfulness of the information shown therein.

(d) *Orange diversion report.* Each handler shall, with respect to each quantity of oranges he diverts for commercial processing into by-products or to charitable organizations, or eliminates from the channels of human consumption, report to the committee, on V. O. A. C. Form No. 15: (1) Name and address of the by-products plant or charitable organization to which the oranges were diverted; (2) the prorate district in which the oranges were produced; (3) the respective quantities of oranges in terms of the number of cartons (i) diverted to by-products, (ii) diverted to charitable organizations, and (iii) eliminated; (4) net weight of such oranges; and (5) if oranges were eliminated, the place and means of elimination. This report shall be prepared in quadruplicate. One copy signed by the handler shall be submitted to the committee promptly upon the diversion or elimination of the oranges covered thereby. One copy may be retained by the handler, and two copies shall be forwarded by the handler to the by-product manufacturer or charitable organization with the understanding that the by-product manufacturer or charitable organization will record, on one copy thereof, the actual net weight or number of cartons of oranges received, and forward such copy to the committee.

[19 F.R. 3216, June 2, 1954, as amended at 24 F.R. 3623, May 6, 1959]

§ 908.132 Oranges for export to Mexico.

With respect to each export shipment of oranges to Mexico, the handler shall obtain from the purchaser, at time of delivery of such oranges, a certification on V. O. A. C. Form No. 16 to the United States Department of Agriculture and the Valencia Orange Administrative Committee that such oranges are to be exported to Mexico and will not re-enter the Continental United States or be reshipped to Canada or Alaska. Such certificate shall state the date of shipment, the quantity of oranges included in such shipment, the truck license number or other identification of the carrier of such oranges, the purchaser's permit, identification, or border crossing number, the name of the packinghouse from which the oranges were purchased, the destination of such oranges, and the signature and address of the purchaser. The certificate shall also be signed by the handler or his authorized representative and the original shall be forwarded by the handler to the committee at the close of each day's business. The duplicate and triplicate shall accompany such oranges and shall be surrendered to the Customs Inspector at the Mexican border. The quadruplicate may be retained by the handler.

[19 F.R. 3216, June 2, 1954, as amended at 24 F.R. 3623, May 6, 1959]

§ 908.133 Minimum quantities and types of shipments.

(a) Any producer, other than a producer whose principal occupation is that of food distribution, who desires to sell oranges produced by him direct to consumers without regard to volume and size restrictions, may file with the committee at the beginning of each marketing season an application for exemption on V.O.A.C. Form No. 18. Such application shall show: (1) The name and address of the producer; (2) the location at which the producer desires to sell oranges to consumers; (3) the estimated quantity of oranges which will be sold in this manner during the marketing year; and (4) evidence that his principal occupation is not that of food distribution. The producer shall be notified in writing of the action taken by the committee on his application. Upon approval of the application, the producer may sell oranges produced by him direct to a consumer without regard to the restrictions of volume or size prescribed pursuant to this part. This exemption shall not apply to sales of oranges made at a packinghouse.

(b) Any handler who desires to furnish at his own expense oranges con-

trolled by him for exhibits or displays without regard to volume and size regulations then in effect shall make written application to the committee for exemption so to handle such oranges. Such application shall show: (1) The location and duration of the exhibit or display; (2) the estimated quantity of oranges to be so furnished for use in the exhibit or display; and (3) the disposition to be made of such oranges upon termination of the exhibit or display. The handler shall be notified in writing of the action taken by the committee on his application. Upon approval of the application, the handler may furnish such oranges at his own expense for the exhibit or display without regard to the then current volume and size regulations. This exemption shall not apply to sales of oranges made at a packinghouse.

(c) Any handler who desires to furnish, at his own expense, oranges for experimental or research work by a university or other similar research institution, which does not involve the sale of such oranges in fresh fruit channels, may do so without regard to volume and size regulations in effect. Any such oranges shall be reported to the committee on V.O.A.C. Form No. 4, Report of Weekly Orange Movement, and shall show the quantity of oranges furnished, and the name and address of the university or other research institution.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674) [19 F.R. 3216, June 2, 1954, as amended at 21 F.R. 6084, Aug. 15, 1956, 25 F.R. 9807, Oct. 13, 1960]

§ 908.139 Conversion factors.

Unless otherwise specified in the particular report form, information with respect to volume of oranges required to be submitted under this part shall be reported in terms of cartons. For shipments of oranges, other than in cartons, the volume of such oranges shall be converted to cartons on the basis of 40 pounds net weight per carton: *Provided*, That the following conversion factors may be used:

(a) One standard 2-compartment California wood box, loose packed, equals 1.6 cartons.

(b) Twenty 2-pound bags equal 1 carton.

(c) Thirteen 3-pound bags equal 1 carton.

(d) Ten 4-pound bags equal 1 carton.

(e) Eight 5-pound bags equal 1 carton.

(f) Seven 6-pound bags equal 1 carton.

(g) Six 7-pound bags equal 1 carton.

(h) Five 8-pound bags equal 1 carton.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674) [27 F.R. 3549, Apr. 13, 1962]

§ 908.140 Weekly reports.

Weekly reports on V.O.A.C. Form No. 4 shall be submited by all handlers to the committee each Monday, shall contain the information set forth in § 908.70, and shall include the name of the boat used in connection with export shipments.

§ 908.141 Manifest reports.

Within 24 hours after shipment is made by a handler, he shall submit to the committee on V.O.A.C. Form No. 3, a manifest report of all oranges so shipped. Such report shall show the rail car number or the serial number of the Certificate of Assignment of Allotment for each shipment, together with the quantity by sizes per carton, of each shipment made within the United States or to Canada, or to Alaska. If the shipment was made under a size regulation and was covered by an exemption certificate, the certificate number shall also be shown. All manifest reports shall be certified by the handler to the United States Department of Agriculture and the Valencia Orange Administrative Committee as to the correctness of the information shown thereon.

[19 F.R. 3216, June 2, 1954, as amended at 24 F.R. 3623, May 6, 1959]

PART 909—GRAPEFRUIT GROWN IN ARIZONA; IN IMPERIAL COUNTY, CALIF.; AND IN THAT PART OF RIVERSIDE COUNTY, CALIF., SITUATED SOUTH AND EAST OF WHITE WATER, CALIF.

Subpart—Order Relative to Handling

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