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7 CFR Ch. IX (1-1-11 Edition)

(h) The term *marketing agreement* means any marketing agreement or any amendment thereto which may be entered into pursuant to section 8b of the Act;

(i) The term *marketing order* means any order or any amendment thereto which may be issued pursuant to section 8c of the Act;

(j) The term *person* means any individual, corporation, partnership, association, or any other business unit;

(k) The term *official* means the Secretary, any officer, employee, or other person employed or appointed by the Department, and any agency or agent appointed by the Secretary to administer a marketing agreement or a marketing order, and any agent or employee of any such agency or agent;

(l) The term *information* means and includes reports, books, accounts, records, and the facts and information contained therein and required to be furnished to or acquired by any official pursuant to the provisions of any marketing agreement or marketing order.

[25 FR 5907, June 28, 1960, as amended at 26 FR 7796, Aug. 22, 1961; 28 FR 579, Jan. 23, 1963; 37 FR 8059, Apr. 25, 1972]

§ 900.201 Investigation and disposition of alleged violations.

Whenever the Administrator has reason to believe that any handler has violated, or is violating, the provisions of any marketing order, he may institute such investigation and, after due notice to such handler, conduct such hearing in order to determine the facts as, in his opinion, are warranted. If, in the opinion of the Administrator and the General Counsel, the facts developed as a result of such investigation or hearing warrant such action, the General Counsel shall refer the matter to the Attorney General for appropriate action.

§ 900.210 Disclosures of information.

All information in the possession of any official which relates to the business or property of any person, and which was furnished by, or obtained from, such person pursuant to the provisions of any marketing agreement or marketing order, shall be kept confidential and shall not be disclosed, divulged, or made public, unless other-

wise expressly provided in said marketing agreement or marketing order, or unless said person authorizes said official, in writing, to disclose such information, except that:

(a) Such information may be disclosed, divulged, or made public if it has been obtained from or furnished by a person who is not the person to whose business or property such information relates or an employee of such latter person, or if such information is otherwise required by law to be furnished to an official;

(b) Such information may be furnished to other officials for use in the regular course of their official duties;

(c) Such information may be combined and published in the form of general statistical studies or data in which the identity of the person furnishing such information or from whom it was obtained shall not be disclosed;

(d) Such information may be disclosed upon lawful demand made by the President or by either House of Congress or any committee thereof, or, if the Secretary determines that such disclosure is not contrary to the public interest, such information may be disclosed in response to a subpoena by any court of competent jurisdiction.

(e) Such information may be offered in evidence (whether or not it has been obtained from or furnished by the person against whom it is offered) by or on behalf of the Secretary, the United States, or the official who obtained it or to whom it was furnished, in any administrative hearing held pursuant to section 8c(15)(A) of the Act or in any action, suit, or proceeding, civil or criminal, in which the Secretary or the United States or any such official is a party, and:

(1) Which is instituted (i) for the purpose of enforcing or restraining the violation of any marketing agreement or marketing order, or (ii) for the purpose of collecting any penalty or forfeiture provided for in the Act, or (iii) for the purpose of collecting any monies due under a marketing agreement or marketing order, or

(2) In which the validity of any marketing agreement or marketing order, or any provision of either, is challenged or involved.

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(f) Such information may be furnished to the duly constituted authorities of any State, pursuant to a written agreement made under authority of section 10(i) of the Act, to the extent that such information is relevant to transactions within the regulatory jurisdiction of such authorities.

§ 900.211 Penalties.

Any official who shall have violated the provisions of § 900.210 by wilfully divulging, disclosing, or making public any information acquired by or furnished to or in the possession or custody of such official pursuant to the provisions of a marketing agreement or marketing order shall be subject to a penalty of the amount specified at § 3.91(b)(1) (viii) of this title for each offense. (The civil penalty provided in this section is prescribed under the authority contained in sec. 10(c) of the Act (7 U.S.C. 610(c)); this provision is not intended to supersede the provision in section 8d(2) of the Act (7 U.S.C. 608d(2)) for criminal liability and removal from office.)

[25 FR 5907, June 28, 1960, as amended at 75 FR 17560, Apr. 7, 2010]

Subpart—Procedure for Conduct of Referenda To Determine Producer Approval of Milk Marketing Orders To Be Made Effective Pursuant to Agricultural Marketing Agreement Act of 1937, as Amended

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

SOURCE: 30 FR 15412, Dec. 15, 1965, unless otherwise noted.

§ 900.300 General.

Unless otherwise prescribed, the procedure contained in this subpart shall be applicable to each producer referendum conducted for the purpose of ascertaining whether the issuance by the Secretary of a milk marketing order is approved or favored, as required under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended, 7 U.S.C. 601-674). The procedure in this subpart replaces the

procedure for conducting similar referenda (15 FR 5177) issued August 7, 1950.

§ 900.301 Definitions.

As used in this subpart and in all supplementary instructions, forms, and documents, unless the context or subject matter otherwise requires, the following terms shall have the following meanings:

(a) *Act*. *Act* means Public Act No. 10, 73d Congress (48 Stat. 31), as amended, and as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937 (50 Stat. 246), as amended.

(b) *Department*. *Department* means the United States Department of Agriculture.

(c) *Secretary*. *Secretary* means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(d) *Administrator*. *Administrator* means the Administrator of the Agricultural Marketing Service, with power to redelegate, or any officer or employee of the Department to whom authority has been delegated or may hereafter be delegated to act in his stead.

(e) *Person*. *Person* includes any individual, partnership, corporation, association, and any other business unit.

(f) *Order*. *Order* means the marketing order (including an amendatory order) with respect to which the Secretary has directed that a referendum be conducted.

(g) *Producer*. *Producer* means any person who is a dairy farmer and who, during the representative period, met the requirements of the term *producer* as defined in the order had such order been in effect during the representative period.

(h) *Handler*. *Handler* means any person who, during the representative period, met the requirements of the term *handler* as defined in the order had such order been in effect during the representative period.

(i) *Referendum agent*. *Referendum agent* means the person designated by the Secretary to conduct the referendum.