COMPILATION OF AGRICULTURAL MARKETING AGREEMENT ACT OF 1937

With amendments as of January 20, 1971

Agricultural Handbook No. 421
Consumer and Marketing Service
U.S. Department of Agriculture
PREFACE

This compilation is intended to indicate the present status of legislation by Congress relating to marketing agreements and orders regulating the handling of agricultural commodities in interstate and foreign commerce. The Agricultural Marketing Agreement Act of 1937, approved June 3, 1937 (Public, No. 137—75th Congress—Chap. 296, 1st Session, 7 U.S.C. 674, 50 Stat. 249), reenacted and amended certain provisions of the Agricultural Adjustment Act, as amended, relating to marketing agreements and orders. The compilation of the legislations is based on Title 7 of the United States Code, 1970 ed. with amendments through January 20, 1971.

The applicable sections and headings of Title 7 of the United States Code are furnished over the paragraphs of the text. Statutory citations in parentheses at end of paragraphs of the text refer to pertinent sections of the acts and amendments thereto arranged chronologically in legislative sequence as they appear in the Code.

Explanatory notes relative to legislative history and amendments of the Agricultural Marketing Agreement Act of 1937 as appear in Title 7 of the United States Code are also included herein.

Cross references are omitted from this compilation of the Act. These will be found under the respective headings and sections of Title 7 of the United States Code.

Also included in this compilation is an Appendix containing selected related legislation.

Washington, D.C. October, 1971

This publication supersedes Agriculture Handbook No. 243, same title, issued April 1963
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§ 601. Declaration of conditions.

It is declared that the disruption of the orderly exchange of commodities in interstate commerce impairs the purchasing power of farmers and destroys the value of agricultural assets which support the national credit structure and that these conditions affect transactions in agricultural commodities with a national public interest, and burden and obstruct the normal channels of interstate commerce. (May 12, 1933, ch. 25, title I, §1, 48 Stat. 31; June 3, 1937, ch. 296, § 1, 2 (a), 50 Stat. 246.)

Short Title

Section 8 (a) of act June 16, 1933, ch. 90, 48 Stat. 199, provided in part that title I of act May 12, 1933, which is classified to this chapter, may for all purposes be referred to as the “Agricultural Adjustment Act.”

Validity of Certain Sections Affirmed

Act June 3, 1937, ch. 296, §§ 1, 2, 50 Stat. 246, provided as follows:

“The following provisions of the Agricultural Adjustment Act, as amended, not having been intended for the control of the production of agricultural commodities, and having been intended to be effective irrespective of the validity of any other provision of that Act are expressly affirmed and validated, and are reenacted without change except as provided in section 2:

“(a) Section 1 (relating to the declaration of emergency [this section]);
“(b) Section 2 (relating to declaration of policy [section 602 of this title]);
“(c) Section 8a (5), (6), (7), (8), and (9) (relating to violations and enforcement [section 608a (5), (6), (7), (8), and (9) of this title]);
“(d) Section 8b (relating to marketing agreements [section 608b of this title]);
“(e) Section 8c (relating to orders [section 608c of this title]);
“(f) Section 8d (relating to books and records [section 608d of this title]);
“(g) Section 8e (relating to determination of base period [former section 608e of this title]);
“(h) Section 10 (a), (b), (2), (c), (f), (g), (h), and (i) (miscellaneous provisions [section 610 (a), (b), (2), (c), (f), (g), (h), and (i) of this title]);
“(i) Section 12 (a) and (c) (relating to appropriation and expenses [section 612 (a) and (c) of this title]);
“(j) Section 14 (relating to separability [section 614 of this title]);
“(k) Section 22 (relating to imports [section 624 of this title]).

“Sec. 2. The following provisions, reenacted in section I of this act, are amended as follows: * * * [sections 601, 602 (1), 608a (6), 608c (5) (B) (d), (6) (B) (18), (19), 610 (c), (f), 612 (a)].”

Section 2 of act June 3, 1937, also added subdivision (j) to section 610.

Section 2 of act June 3, 1937, was amended by act Aug. 5, 1937, ch. 567, 50 Stat. 563, which amending act provided for amendments to subdivisions (2) and (6) of section 608c of this title.
§ 602. Declaration of policy; establishment of price basing period; marketing standards; orderly supply flow; circumstances for continued regulation.

It is declared to be the policy of Congress—

(1) Through the exercise of the powers conferred upon the Secretary of Agriculture under this chapter, to establish and maintain such orderly marketing conditions for agricultural commodities in interstate commerce as will establish, as the prices to farmers, parity prices as defined by section 1301 (a) (1) of this title.

(2) To protect the interest of the consumer by (a) approaching the level of prices which it is declared to be the policy of Congress to establish in subsection (1) of this section by gradual correction of the current level at as rapid a rate as the Secretary of Agriculture deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and (b) authorizing no action under this chapter which has for its purpose the maintenance of prices to farmers above the level which it is declared to be the policy of Congress to establish in subsection (1) of this section.

(3) Through the exercise of the powers conferred upon the Secretary of Agriculture under this chapter, to establish and maintain such production research, marketing research, and development projects provided in section 608c(6) (I) of this title, such container and pack requirements provided in section 608c (H) of this title, such minimum standards of quality and maturity and such grading and inspection requirements for agricultural commodities enumerated in section 608c(2) of this title, other than milk and its products, in interstate commerce as will effectuate such orderly marketing of such agricultural commodities as will be in the public interest.

(4) Through the exercise of the powers conferred upon the Secretary of Agriculture under this chapter, to establish and maintain such orderly marketing conditions for any agricultural commodity enumerated in section 608c (2) of this title as will provide, in the interests of producers and consumers, an orderly flow of the supply thereof to market throughout its normal marketing season to avoid unreasonable fluctuations in supplies and prices.

(5) Through the exercise of the power conferred upon the Secretary of Agriculture under this chapter, to continue for the remainder of any marketing season or marketing year, such regulation pursuant to any order as will tend to avoid a disruption of the orderly marketing of any commodity and be in the public interest, if the regulation of such commodity under such order has been initiated during such marketing season or marketing year on the basis of its need to effectuate the policy of this chapter.

AGRICULTURAL MARKETING AGREEMENT ACT OF 1937

7 U.S.C. §§ 602, 608a


AMENDMENTS

1970—Subsec. (3). Pub. L. 91–292 added the authority to establish and maintain the production research, marketing research, and development projects provided in section 608c(6) (1) of this title.

1965—Subsec. (3). Pub. L. 89–330 inserted "such container and pack requirements provided in section 608c(6) (H) of this title."


1948—Subsec. (1). Act July 3, 1948 made the definition of "parity" conform to definition stated in section 1301 (a) (1) of this title.


1937—Act. June 3, 1937 inserted "orderly marketing conditions for agricultural commodities in interstate commerce as will "establish" preceding "as the prices to farmers";"


EFFECTIVE DATE OF 1948 AMENDMENT

Amendment of section by act of July 3, 1948, effective as of Jan. 1, 1950, see note set out under section 1301 of this title.

VALIDITY OF SECTION AFFIRMED

Section 1 of act June 3, 1937, affirmed and validated, and reenacted without change the provisions of this section except for the amendment to subsec. (1) by section 2 of said act. See note to section 601 of this title.

§ 608a

(5) Forfeitures.

Any person exceeding any quota or allotment fixed for him under this chapter by the Secretary of Agriculture and any other person knowingly participating or aiding in the exceeding of such quota or allotment shall forfeit to the United States a sum equal to the value of such excess at the current market price for such commodity at the time of violation, which forfeiture shall be recoverable in a civil suit brought in the name of the United States.

(6) Jurisdiction of district courts.

The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating any order, regulation, or agreement, herefore or hereafter made or issued pursuant to this chapter, in any proceeding now pending or hereafter brought in said courts.

(7) Duties of United States attorneys; investigation of violations by Secretary; hearings.

Upon the request of the Secretary of Agriculture, it shall be the duty of the several United States attorneys, in their respective districts, under the directions of the Attorney General, to institute proceedings to enforce the remedies and to collect the forfeitures
provided for in, or pursuant to this chapter. Whenever the Secretary, or such officer or employee of the Department of Agriculture as he may designate for the purpose, has reason to believe that any handler has violated, or is violating, the provisions of any order or amendment thereto issued pursuant to this chapter, the Secretary shall have power to institute an investigation and, after due notice to such handler, to conduct a hearing in order to determine the facts for the purpose of referring the matter to the Attorney General for appropriate action.

(8) Cumulative remedies.

The remedies provided for in this section shall be in addition to, and not exclusive of, any of the remedies or penalties provided for elsewhere in this chapter or now or hereafter existing at law or in equity.

(9) “Person” defined.

The term “person” as used in this chapter includes an individual, partnership, corporation, association, and any other business unit.


AMENDMENTS

1961—Subsec. (5). Pub. L. 87–128 deleted “willfully” following “Any person” and substituted provision for forfeiture of a sum equal to the value of the excess at the current market price for the commodity at the time of violation for provision for forfeiture of a sum equal to three times the current market value of the excess.

1937—Subsec. (6). Act June 3, 1937, § 2(c), struck out “the provisions of this section, or of”.

1935—Subsec. (1). Act Aug. 24, 1935, § 8, substituted “persons engaged in handling” for “handlers” wherever appearing; struck out “or in competition with,” in paragraph (B); inserted “directly” before “to burden” in paragraph (B); and struck out the words “in any way” in paragraph (B).

Subsec. (6). Act Aug. 24, 1935, § 9, inserted “or” after the comma following “regulation” and struck out “or license”.


1934—Subsec. (1). Act of May 9, 1934, added subsec. (1).

Subsecs. (5)–(9). Act May 9, 1934, added subsecs. (5)–(9).

CHANGE OF NAME

The term “district attorneys of the United States” was changed to “United States attorneys” by act June 25, 1948. See section 541 et seq. of Title 28, Judiciary and Judicial Procedure.

VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, affirmed and validated, and reenacted without change the provisions of subsections (5), (6), (7), (8), and (9) of this section, except for the amendment to subsection (6) by section 2 of the act. See note to section 601 of this title.
§ 608b. Marking agreements; exemption from antitrust laws.

In order to effectuate the declared policy of this chapter, the Secretary of Agriculture shall have the power, after due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof, only with respect to such handling as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof. The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States, and any such agreement shall be deemed to be lawful: Provided, That no such agreement shall remain in force after the termination of this chapter. (May 12, 1933, ch. 25, title I, § 8b, formerly § 8 (2), 48 Stat. 34; Apr. 7, 1934, ch. 103, § 7, 48 Stat. 528; renumbered and amended Aug. 24, 1935, ch. 641, § 4, 49 Stat. 755; June 3, 1937, ch. 296, § 1, 50 Stat. 246; June 30, 1947, ch. 166, title II, § 206 (d), 61 Stat. 208.)

CODIFICATION

The provisions now appearing in this section, except the first sentence, were originally enacted as part of section 8(2) of act May 12, 1933, and formerly appeared as section 608(2) of this title.

AMENDMENTS

1935—Act June 24, 1935, designated subsection 2 of section 8 of act May 12, 1933, as section 8b and changed the first sentence to read as it now appears in the text.

VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, affirmed and validated, and reenacted without change the provisions of this section. See note to section 601 of this title.

§ 608c. Orders regulating handling of commodity.

(1) Issuance by Secretary.

The Secretary of Agriculture shall, subject to the provisions of this section, issue, and from time to time amend, orders applicable to processors, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of this section. Such persons are referred to in this chapter as “handlers.” Such orders shall regulate, in the manner hereinafter in this section provided, only such handling of such agricultural commodity, or product thereof, as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof.

(2) Commodities to which applicable; single commodities and separate agricultural commodities.

Orders issued pursuant to this section shall be applicable only
to (A) the following agricultural commodities and the products thereof (except canned or frozen grapefruit, cherries, apples, or cranberries, the products of naval stores, and the products of honeybees), or to any regional, or market classification of any such commodity or product: Milk, fruits (including filberts, almonds, pecans, and walnuts but not including apples, other than apples produced in the States of Washington, Oregon, Idaho, New York, Michigan, Maryland, New Jersey, Indiana, California, Maine, Vermont, New Hampshire, Rhode Island, Massachusetts, Connecticut, Colorado, Utah, New Mexico, Illinois, and Ohio, and not including fruits for canning or freezing other than olives, grapefruit, cherries, cranberries, and apples produced in the States named above except Washington, Oregon, and Idaho), tobacco, vegetables (not including vegetables, other than asparagus, for canning or freezing and not including potatoes for canning, freezing, or other processing), hops, honeybees, and naval stores as included in the Naval Stores Act and standards established thereunder (including refined or partially refined oleoresin): Provided, That no order issued pursuant to this section shall be effective as to any grapefruit for canning or freezing unless the Secretary of Agriculture determines, in addition to other findings and determinations required by this chapter, that the issuance of such order is approved or favored by the processors who, during a representative period determined by the Secretary, have been engaged in canning or freezing such commodity for market and have canned or frozen for market more than 50 per centum of the total volume of such commodity canned or frozen for market during such representative period; and (B) any agricultural commodity (except honey, cotton, rice, wheat, corn, grain sorghums, oats, barley, rye, sugarcane, sugarbeets, wool, mohair, livestock, soybeans, cottonseed, flaxseed, poultry (but not excepting turkeys), eggs (but not excepting turkey hatching eggs), fruits and vegetables for canning or freezing, including potatoes for canning, freezing, or other processing, and apples), or any regional or market classification thereof, not subject to orders under (A) of this subdivision, but not the products (including canned or frozen commodities or products) thereof. No order issued pursuant to this section shall be effective as to cherries, apples, or cranberries for canning or freezing unless the Secretary of Agriculture determines, in addition to other required findings and determinations, that the issuance of such order is approved or favored by processors who, during a representative period determined by the Secretary, have engaged in canning or freezing such commodity for market and have frozen or canned more than 50 per centum of the total volume of the commodity to be regulated which was canned or frozen within the production area, or marketed within the marketing area, defined in such order, during such representative period. No order issued pursuant to this section shall be applicable to peanuts produced in more than one of the following production areas: the Virginia-Carolina production area, the Southeast production area, and the Southwest production area. If the Secretary determines that the declared
policy of this chapter will be better achieved thereby (i) the commodities of the same general class and used wholly or in part for the same purposes may be combined and treated as a single commodity and (ii) the portion of an agricultural commodity devoted to or marketed for a particular use or combination of uses, may be treated as a separate agricultural commodity. All agricultural commodities and products covered hereby shall be deemed specified herein for the purposes of subsections (6) and (7) of this section.

(3) Notice and hearing.

Whenever the Secretary of Agriculture has reason to believe that the issuance of an order will tend to effectuate the declared policy of this chapter with respect to any commodity or product thereof specified in subsection (2) of this section, he shall give due notice of and an opportunity for a hearing upon a proposed order.

(4) Finding and issuance of order.

After such notice and opportunity for hearing, the Secretary of Agriculture shall issue an order if he finds, and sets forth in such order, upon the evidence introduced at such hearing (in addition to such other findings as may be specifically required by this section) that the issuance of such order and all of the terms and conditions thereof will tend to effectuate the declared policy of this chapter with respect to such commodity.

(5) Milk and its products; terms and conditions of orders.

In the case of milk and its products, orders issued pursuant to this section shall contain one or more of the following terms and conditions, and (except as provided in subsection (7) of this section) no others:

(A) Classifying milk in accordance with the form in which or the purpose for which it is used, and fixing, or providing a method for fixing, minimum prices for each such use classification which all handlers shall pay, and the time when payments shall be made, for milk purchased from producers or associations of producers. Such prices shall be uniform as to all handlers, subject only to adjustments for (1) volume, market, and production differentials customarily applied by the handlers subject to such order, (2) the grade or quality of the milk purchased, and (3) the locations at which delivery of such milk, or any use classification thereof, is made to such handlers:

(B) Providing:

(i) for the payment to all producers and associations of producers delivering milk to the same handler of uniform prices for all milk delivered by them: Provided, That, except in the case of orders covering milk products only, such provision is approved or favored by at least three-fourths of the producers who, during a representative period determined by the Secretary of Agriculture, have been engaged in the production for market of milk covered in such order or by producers who, during such representative period, have produced at least
three-fourths of the volume of such milk produced for market during such period; the approval required hereunder shall be separate and apart from any other approval or disapproval provided for by this section; or

(ii) for the payment to all producers and associations of producers delivering milk to all handlers of uniform prices for all milk so delivered, irrespective of the uses made of such milk by the individual handler to whom it is delivered; subject, in either case, only to adjustments for (a) volume, market, and production differentials customarily applied by the handlers subject to such order, (b) the grade or quality of the milk delivered, (c) the locations at which delivery of such milk is made, (d) a further adjustment to encourage seasonal adjustments in the production of milk through equitable apportionment of the total value of the milk purchased by any handler, or by all handlers, among producers on the basis of their marketings of milk during a representative period of time, which need not be limited to one year; (e) a provision providing for the accumulation and disbursement of a fund to encourage seasonal adjustments in the production of milk may be included in an order; and (f) a further adjustment, equitably to apportion the total value of milk purchased by all handlers among producers on the basis of their marketings of milk, which may be adjusted to reflect the utilization of producer milk by all handlers in any use classification or classifications, during a representative period of one to three years, which will be automatically updated each year. In the event a producer holding a base allocated under this clause (f) shall reduce his marketings, such reduction shall not adversely affect his history of production and marketing for the determination of future bases, or future updating of bases, except that an order may provide that, if a producer reduces his marketings below his base allocation in any one or more use classifications designated in the order, the amount of any such reduction shall be taken into account in determining future bases, or future updating of bases. Bases allocated to producers under this clause (f) may be transferable under an order on such terms and conditions, including those which will prevent bases taking on an unreasonable value, as are prescribed in the order by the Secretary of Agriculture. Provisions shall be made in the order for the allocation of bases under this clause (f)—

(i) for the alleviation of hardship and inequity among producers; and

(ii) for providing bases for dairy farmers not delivering milk as producers under the order upon becoming producers under the order who did not produce milk during any part of the representative period and these new producers shall within ninety days after the first regular delivery of milk at the price for the lowest use classification specified in such order be allocated a base which the Secretary determines proper after considering supply and demand conditions, the development of orderly and efficient marketing conditions and to the respective interests of
producers under the order, all other dairy farmers and the consuming public. Producer bases so allocated shall for a period of not more than three years be reduced by not more than 20 per centum; and

(iii) dairy farmers not delivering milk as producers under the order upon becoming producers under the order by reason of a plant to which they are making deliveries becoming a pool plant under the order, by amendment or otherwise, shall be provided bases with respect to milk delivered under the order based on their past deliveries of milk on the same basis as other producers under the order; and

(iv) such order may include such additional provisions as the Secretary deems appropriate in regard to the reentry of producers who have previously discontinued their dairy farm enterprise or transferred bases authorized under this clause (f); and

(v) notwithstanding any other provision of this chapter, dairy farmers not delivering milk as producers under the order, upon becoming producers under the order, shall within ninety days be provided with respect to milk delivered under the order, allocations based on their past deliveries of milk during the representative period from the production facilities from which they are delivering milk under the order on the same basis as producers under the order on the effective date of order provisions authorized under this clause (f); Provided, That bases shall be allocated only to a producer marketing milk from the production facilities from which he marketed milk during the representative period, except that in no event shall such allocation of base exceed the amount of milk actually delivered under such order. The assignment of other source milk to various use classes shall be made without regard to whether an order contains provisions authorized under this clause (f). In the case of any producer who during any accounting period delivers a portion of his milk to persons not fully regulated by the order, provision shall be made for reducing the allocation of, or payment to be received by any such producer under this clause (f) to compensate for any marketings of milk to such other persons for such period or periods as necessary to insure equitable participation in marketings among all producers. Notwithstanding the the provisions of subsection (12) of this section and the last sentence of subsection (19) of this section, order provisions under this clause (f) shall not be effective in any marketing order unless separately approved by producers in a referendum in which each individual producer shall have one vote and may be terminated separately whenever the Secretary makes a determination with respect to such provisions as is provided for the termination of an order in subsection (16) (B) of this section. Disapproval or termination of such order provisions shall not be considered disapproval of the order or of other terms of the order.

(C) In order to accomplish the purposes set forth in paragraphs (A) and (B) of this subsection, providing a method for
making adjustments in payments, as among handlers (including producers who are also handlers), to the end that the total sums paid by each handler shall equal the value of the milk purchased by him at the prices fixed in accordance with paragraph (A) of this subsection.

(D) Providing that, in the case of all milk purchased by handlers from any producer who did not regularly sell milk during a period of 30 days next preceding the effective date of such order for consumption in the area covered thereby, payments to such producer, for the period beginning with the first regular delivery by such producer and continuing until the end of two full calendar months following the first day of the next succeeding calendar month, shall be made at the price for the lowest use classification specified in such order, subject to the adjustments specified in paragraph (B) of this subsection.

(E) Providing (i) except as to producers for whom such services are being rendered by a cooperative marketing association, qualified as provided in paragraph (F) of this subsection, for market information to producers and for the verification of weights, sampling, and testing of milk purchased from producers, and for making appropriate deductions therefor from payments to producers, and (ii) for assurance of, and security for, the payment by handlers for milk purchased.

(F) Nothing contained in this subsection is intended or shall be construed to prevent a cooperative marketing association qualified under the provisions of sections 291 and 292 of this title, engaged in making collective sales or marketing of milk or its products for the producers thereof, from blending the net proceeds of all of its sales in all markets in all use classifications, and making distribution thereof to its producers in accordance with the contract between the association and its producers: Provided, That it shall not sell milk or its products to any handler for use or consumption in any market at prices less than the prices fixed pursuant to paragraph (A) of this subsection for such milk.

(G) No marketing agreement or order applicable to milk and its products in any marketing area shall prohibit or in any manner limit, in the case of the products of milk, the marketing in that area of any milk or product thereof produced in any production area in the United States.


(I) Establishing or providing for the establishment of research and development projects, and advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products, to be financed by producers in a manner and at a rate specified in the order, on all producer milk under the order. Producer contributions under this subparagraph may be deducted from funds due producers in computing total pool value or otherwise computing total funds
due producers and such deductions shall be in addition to the adjustments authorized by paragraph (B) of this subsection. Provision may be made in the order to exempt, or allow suitable adjustments or credits in connection with, milk on which a mandatory checkoff for advertising or marketing research is required under the authority of any State law. Such funds shall be paid to an agency organized by milk producers and producers' cooperative associations in such form and with such methods of operation as shall be specified in the order. Such agency may expend such funds for any of the purposes authorized by this subparagraph and may designate, employ, and allocate funds to persons and organizations engaged in such programs which meet the standards and qualifications specified in the order. All funds collected under this subparagraph shall be separately accounted for and shall be used only for the purposes for which they were collected. Programs authorized by this subparagraph may be either local or national in scope, or both, as provided in the order, but shall not be international. Order provisions under this subparagraph shall not become effective in any marketing order unless such provisions are approved by producers separately from other order provisions, in the same manner provided for the approval of marketing orders, and may be terminated separately whenever the Secretary makes a determination with respect to such provisions as is provided for the termination of an order in subsection (16) (B) of this section. Disapproval or termination of such order provisions shall not be considered disapproval of the order or of other terms of the order. Notwithstanding any other provision of this chapter, any producer against whose marketings any assessment is withheld or collected under the authority of this subparagraph, and who is not in favor of supporting the research and promotion programs, as provided for herein, shall have the right to demand and receive a refund of such assessment pursuant to the terms and conditions specified in the order.

(6) Other commodities; terms and conditions of orders.

In the case of the agricultural commodities and the products thereof, other than milk and its products, specified in subsection (2) of this section orders issued pursuant to this section shall contain one or more of the following terms and conditions, and (except as provided in subsection (7) of this section), no others:

(A) Limiting, or providing methods for the limitation of, the total quality of any such commodity or product, or of any grade, size, or quality thereof, produced during any specified period or periods, which may be marketed in or transported to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof, during any specified period or periods by all handlers thereof.

(B) Allotting, or providing methods for allotting, the amount of such commodity or product, or any grade, size, or quality
thereof, which each handler may purchase from or handle on behalf of any and all producers thereof, during any specified period or periods, under a uniform rule based upon the amounts sold by such producers in such prior period as the Secretary determines to be representative, or upon the current quantities available for sale by such producers, or both, to the end that the total quantity thereof to be purchased, or handled during any specified period or periods shall be apportioned equitably among producers.

(C) Allotting, or providing methods for allotting, the amount of any such commodity or product, or any grade, size, or quality thereof, which each handler may market in or transport to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof, under a uniform rule based upon the amounts which each such handler has available for current shipment, or upon the amounts shipped by each such handler in such prior period as the Secretary determines to be representative, or both, to the end that the total quantity of such commodity or product, or any grade, size, or quality thereof, to be marketed in or transported to any or all markets in the current of foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof, during any specified period or periods shall be equitably apportioned among all of the handlers thereof.

(D) Determining, or providing methods for determining, the existence and extent of the surplus of any such commodity or product, or of any grade, size, or quality thereof, and providing for the control and disposition of such surplus, and for equalizing the burden of such surplus elimination or control among the producers and handlers thereof.

(E) Establishing or providing for the establishment of reserve pools of any such commodity or product, or of any grade, size, or quality thereof, and providing for the equitable distribution of the net return derived from the sale thereof among the persons beneficially interested therein.

(F) Requiring or providing for the requirement of inspection of any such commodity or product produced during specified periods and marketed by handlers.

(G) In the case of hops and their products, in addition to, or in lieu of, the foregoing terms and conditions, orders may contain one or more of the following:

(i) Limiting, or providing methods for the limitation of, the total quantity thereof, or of any grade, type, or variety thereof, produced during any specified period or periods, which all handlers may handle in the current of or so as directly to burden, obstruct, or affect interstate or foreign commerce in hops or any product thereof.

(ii) Apportioning, or providing methods for apportioning, the total quantity of hops of the production of the then cur-
rent calendar year permitted to be handled equitably among all producers in the production area to which the order applies upon the basis of one or more or a combination of the following: The total quantity of hops available or estimated will become available for market by each producer from his production during such period; the normal production of the acreage of hops operated by each producer during such period upon the basis of the number of acres of hops in production, and the average yield of that acreage during such period as the Secretary determines to be representative, with adjustments determined by the Secretary to be proper for age of plantings or abnormal conditions affecting yield; such normal production or historical record of any acreage for which data as to yield of hops are not available or which had no yield during such period shall be determined by the Secretary on the basis of the yields of other acreage of hops of similar characteristics as to productivity, subject to adjustment as just provided for.

(iii) Allotting, or providing methods for allotting, the quantity of hops which any handler may handle so that the allotment fixed for that handler shall be limited to the quantity of hops apportioned under preceding clause (ii) to each respective producer of hops; such allotment shall constitute an allotment fixed for that handler within the meaning of sub-section (5) of section 608a of this title.

(H) Providing a method for fixing the size, capacity, weight, dimensions, or pack of the container, or containers, which may be used in the packaging, transportation, sale, shipment, or handling of any fresh or dried fruits, vegetables, or tree nuts.

(I) Establishing or providing for the establishment of production research, marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of any such commodity or product, the expense of such projects to be paid from funds collected pursuant to the marketing order: Provided, That with respect to orders applicable to almonds, cherries, papayas, carrots, citrus fruits, onions, Tokay grapes, fresh pears, dates, plums, nectarines, celery, sweet corn, limes, olives, pecans, avocados, apples, or tomatoes such projects may provide for any form of marketing promotion including paid advertising and with respect to almonds may provide for crediting the pro rata expense assessment obligations of a handler with all or any portion of his direct expenditures for such marketing promotion including paid advertising as may be authorized by the order: Provided further, That the inclusion in a Federal marketing order of provisions for research and marketing promotion, including paid advertising, shall not be deemed to preclude, preempt or supersede any such provisions in any State program covering the same commodity.
(7) Terms common to all orders.

In the case of the agricultural commodities and the products thereof specified in subsection (2) of this section orders shall contain one or more of the following terms and conditions:

(A) Prohibiting unfair methods of competition and unfair trade practices in the handling thereof.

(B) Providing that (except for milk and cream to be sold for consumption in fluid form) such commodity or product thereof, or any grade, size, or quality thereof shall be sold by the handlers thereof only at prices filed by such handlers in the manner provided in such order.

(C) Providing for the selection by the Secretary of Agriculture, or a method for the selection, of an agency or agencies and defining their powers and duties, which shall include only the powers:

(i) To administer such order in accordance with its terms and provisions;
(ii) To make rules and regulations to effectuate the terms and provisions of such order;
(iii) To receive, investigate, and report to the Secretary of Agriculture complaints of violations of such order; and
(iv) To recommend to the Secretary of Agriculture amendments to such order.

No person acting as a member of an agency established pursuant to this paragraph shall be deemed to be acting in an official capacity, within the meaning of section 610 (g) of this title, unless such person receives compensation for his personal services from funds of the United States. There shall be included in the membership of any agency selected to administer a marketing order applicable to grapefruit for canning or freezing one or more representatives of processors of the commodity specified in such order.

(D) Incidental to, and not inconsistent with, the terms and conditions specified in subsections (5) to (7) of this section and necessary to effectuate the other provisions of such order.

(8) Orders with marketing agreement.

Except as provided in subsection (9) of this section, no order issued pursuant to this section shall become effective until the handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of not less than 50 per centum of the volume of the commodity or product thereof covered by such order, which is produced or marketed within the production or marketing area defined in such order have signed a marketing agreement, entered into pursuant to section 608b of this title, which regulates the handling of such commodity or product in the same manner as such order, except that as to citrus fruits produced in any area producing what is known as California citrus fruits no order issued pursuant to this subsection shall become effective until the handlers of not less than 80 per centum of the volume of
such commodity or product thereof covered by such order have signed such a marketing agreement: Provided, That no order issued pursuant to this subsection shall be effective unless the Secretary of Agriculture determines that the issuance of such order is approved or favored:

(A) By at least two-thirds of the producers who (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said order must be approved or favored by three-fourths of the producers), during a representative period determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market of the commodity specified therein, or who, during such representative period, have been engaged in the production of such commodity for sale in the marketing area specified in such marketing agreement, or order, or

(B) By producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or who, during such representative period, have produced at least two-thirds of the volume of such commodity sold within the marketing area specified in such marketing agreement or order.

(9) Orders with or without marketing agreement.

Any order issued pursuant to this section shall become effective in the event that, notwithstanding the refusal or failure of handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of more than 50 per centum of the volume of the commodity or product thereof (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said per centum shall be 80 per centum) covered by such order which is produced or marketed within the production or marketing area defined in such order to sign a marketing agreement relating to such commodity or product thereof, on which a hearing has been held, the Secretary of Agriculture determines;

(A) That the refusal or failure to sign a marketing agreement (upon which a hearing has been held) by the handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of more than 50 per centum of the volume of the commodity or product thereof (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said per centum shall be 80 per centum) specified therein which is produced or marketed within the production or marketing area specified therein tends to prevent the effectuation of the declared policy of this chapter with respect to such commodity or product, and
(B) That the issuance of such order is the only practical means of advancing the interests of the producers of such commodity pursuant to the declared policy, and is approved or favored:

(i) By at least two-thirds of the producers (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said order must be approved or favored by three-fourths of the producers) who, during a representative period determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market of the commodity specified therein, or who, during such representative period, have been engaged in the production of such commodity for sale in the marketing area specified in such marketing agreement, or order, or

(ii) By producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or who, during such representative period, have produced at least two-thirds of the volume of such commodity sold within the marketing area specified in such marketing agreement or order.

(10) Manner of regulation and applicability.

No order shall be issued under this section unless it regulates the handling of the commodity or product covered thereby in the same manner as, and is made applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held. No order shall be issued under this chapter prohibiting, regulating, or restricting the advertising of any commodity or product covered thereby, nor shall any marketing agreement contain any provision prohibiting, regulating, or restricting the advertising of any commodity, or product covered by such marketing agreement.

(11) Regional application.

(A) No order shall be issued under this section which is applicable to all production areas or marketing areas, or both, of any commodity or product thereof unless the Secretary finds that the issuance of several orders applicable to the respective regional production areas or regional marketing areas, or both, as the case may be, of the commodity or product would not effectively carry out the declared policy of this chapter.

(B) Except in the case of milk and its products, orders issued under this section shall be limited in their application to the smallest regional production areas or regional marketing areas, or both, as the case may be, which the Secretary finds practicable, consistently with carrying out such declared policy.

(C) All orders issued under this section which are applicable to the same commodity or product thereof shall, so far as practicable, prescribe such different terms, applicable to different production
areas and marketing areas, as the Secretary finds necessary to give due recognition to the differences in production and marketing of such commodity or product in such areas.

(12) Approval of cooperative association as approval of producers.

Whenever, pursuant to the provisions of this section, the Secretary is required to determine the approval or disapproval of producers with respect to the issuance of any order, or any term or condition thereof, or the termination thereof, the Secretary shall consider the approval or disapproval by any cooperative association of producers, bona fide engaged in marketing the commodity or product thereof covered by such order, or in rendering services for or advancing the interests of the producers of such commodity, as the approval or disapproval of the producers who are members of, stockholders in, or under contract with, such cooperative association of producers.

(13) Retailer and producer exemption.

(A) No order issued under subsection (9) of this section shall be applicable to any person who sells agricultural commodities or products thereof at retail in his capacity as such retailer, except to a retailer in his capacity as a retailer of milk and its products.

(B) No order issued under this chapter shall be applicable to any producer in his capacity as a producer.

(14) Violation of order; penalty.

Any handler subject to an order issued under this section, or any officer, director, agent, or employee of such handler, who violates any provision of such order (other than a provision calling for payment of a pro rata share of expenses) shall, on conviction, be fined not less than $50 or more than $500 for each such violation, and each day during which such violation continues shall be deemed a separate violation: Provided, That if the court finds that a petition pursuant to subsection (15) of this section was filed and prosecuted by the defendant in good faith and not for delay, no penalty shall be imposed under this subsection for such violations as occurred between the date upon which the defendant's petition was filed with the Secretary, and the date upon which notice of the Secretary's ruling thereon was given to the defendant in accordance with regulations prescribed pursuant to subsection (15) of this section.

(15) Petition by handler for modification of order or exemption; court review of ruling of Secretary.

(A) Any handler subject to an order may file a written petition with the Secretary of Agriculture, stating that any such order or any provision of any such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary of Agriculture,
with the approval of the President. After such hearing, the Secretary shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(B) The District Courts of the United States in any district in which such handler is an inhabitant, or has his principal place of business, are vested with jurisdiction in equity to review such ruling, provided a bill in equity for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to him a copy of the bill of complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to this subsection (15) shall not impede, hinder, or delay the United States or the Secretary of Agriculture from obtaining relief pursuant to section 608a(6) of this title. Any proceedings brought pursuant to section 608a(6) of this title (except where brought by way of counterclaim in proceedings instituted pursuant to this subsection (15)) shall abate whenever a final decree has been rendered in proceedings between the same parties, and covering the same subject matter, instituted pursuant to this subsection (15).

(16) Termination of orders and marketing agreements.

(A) The Secretary of Agriculture shall, whenever he finds that any order issued under this section, or any provision thereof, obstructs or does not tend to effectuate the declared policy of this chapter, terminate or suspend the operation of such order or such provision thereof.

(B) The Secretary shall terminate any marketing agreement entered into under section 608b of this title, or order issued under this section, at the end of the then current marketing period for such commodity, specified in such marketing agreement or order, whenever he finds that such termination is favored by a majority of the producers who, during a representative period determined by the Secretary, have been engaged in the production for market of the commodity specified in such marketing agreement or order, within the production area specified in such marketing agreement or order, or who, during such representative period, have been engaged in the production of such commodity for sale within the marketing area specified in such marketing agreement or order: Provided, That such majority have, during such representative period, produced for market more than 50 per centum of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or have, during such representative period, produced more than 50 per centum of the volume of such commodity sold in the marketing area specified in such marketing agreement or order, but such termination shall be effective only if announced on or before such
date (prior to the end of the then current marketing period) as may be specified in such marketing agreement or order.

(C) The termination or suspension thereto, or provision thereof, shall not be considered an order within the meaning of this section.

(17) Provisions applicable to amendments.

The provisions of this section and section 608d of this title applicable to orders shall be applicable to amendments to orders: Provided, That notice of a hearing upon a proposed amendment to any order issued pursuant to this section, given not less than three days prior to the date fixed for such hearing, shall be deemed due notice thereof.

(18) Milk prices.

The Secretary of Agriculture, prior to prescribing any term in any marketing agreement or order, or amendment thereto, relating to milk or its products, if such term is to fix minimum prices to be paid to producers or associations of producers, or prior to modifying the price fixed in any such term, shall ascertain the parity prices of such commodities. The prices which it is declared to be the policy of Congress to establish in section 602 of this title shall, for the purposes of such agreement, order, or amendment, be adjusted to reflect the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk or its products in the marketing area. Whenever the Secretary finds, upon the basis of the evidence adduced at the hearing required by section 608b of this title or this section, as the case may be, that the parity prices of such commodities are not reasonable in view of the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk and its products in the marketing area or, in the case of orders applying only to manufacturing milk, the production area to which the contemplated agreement, order, or amendment relates, he shall fix such prices as he finds will reflect such factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest. Thereafter, as the Secretary finds necessary on account of changed circumstances, he shall, after due notice and opportunity for hearing, make adjustments in such prices.

(19) Producer or processor referendum for approving order.

For the purpose of ascertaining whether the issuance of an order is approved or favored by producers or processors, as required under the applicable provisions of this chapter, the Secretary may conduct a referendum among producers or processors and in the case of an order other than an amendatory order shall do so. The requirements of approval or favor under any such provision shall be held to be complied with if, of the total number of producers or processors, or the total volume of production, as the case may be, represented in such referendum, the percentage approving or

References in Text

The Naval Stores Act, referred to in subsec. (2), is classified to chapter 4 of this title.

The proviso reading: "Provided, however, that no action taken hereunder shall conflict with the Standard Containers Act of 1916 and the Standard Containers Act of 1928" formerly constituted a part of section 608c(6) (H) but is no longer applicable because the Standard Containers Act of 1916 and the Standard Containers Act of 1928, referred to in the text, formerly set out as sections 251 to 256 and 257 to 2571, respectively of Title 15, Commerce and Trade, were repealed by Pub. L. 90–628, § 1(a), (b), October 22, 1968, 82 Stat. 1320.

Codification

The words "(including the district court of the United States for the District of Columbia)" in subsec. (15) (B) following "The District Courts of the United States" have been deleted as superfluous in view of section 132 (a) of Title 28, Judiciary and Judicial Procedure which states that "There should be in each judicial district a district court which shall be a court of record known as the United States District Court for the district", and section 88 of said Title 28 which states that "The District of Columbia constitutes one judicial district."

Phrase "with the approval of the President," following "Secretary of Agriculture" in opening par. of subsec. (9) of this section was omitted on the authority of 1947 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees, which abolished the function of the President with respect to approving determinations of the Secretary of Agriculture in connection with agricultural marketing orders under this section.
AMENDMENTS


Subsec. (2). Pub. L. 91–196 added potatoes for canning, freezing or other processing to the category of agricultural commodities excluded from the Secretary's power to issue orders to regulate the handling of such commodities.
Subsec. (5) (B). Pub. L. 91–524 retained and separately stated the existing authority for base-surplus or base-excess provisions in milk marketing orders in cl. (d), clarified and reaffirmed, in cl. (e), the authority for plans under which leveling of spring and fall production is encouraged by withholding from sums paid for milk in the spring and subsequently paying the same sums to producers in the fall, and, in cl. (f), extended the authority for Class I Base Plans, provided for a representative Class I base period of one to three years to be automatically updated each year, added provisions to automatically keep the total of bases closely related to changing levels of market utilization, provided authorization for transfers of Class I bases on such terms and conditions as prescribed in the order by the Secretary, added authority to make provision in the order for the alleviation of hardship and inequity among producers including abnormally low production during a base forming period due to circumstances beyond his control, operation during part but not all of a base period, acts of God, and reduced marketing due to diseases, pesticides, residues, and condemnation of milk, and removed provision under which the participation of new producers in the market's Class I sales was confined to increases in such sales with defined exceptions.
Subsec. (6) (I). Pub. L. 91–522 in first proviso added applicability to almonds and provisions authorizing with respect to almonds the crediting of the pro rata expense assessment obligations of a handler with all or any portion of his direct expenditures for marketing promotion including paid advertising as authorized by the order, and in second proviso added provisions relating to marketing promotion, including paid advertising, in Federal marketing orders.
Pub. L. 91–384 added "papayas," following "applicable to cherries,"
Pub. L. 91–363 substituted "avocadoes, or apples" for "or avocados" in the proviso.
Subsec. (6) (I). Pub. L. 91–292 authorized the establishment of production research, added efficient production to the enumeration of aims to be served by established projects, and added provision that the inclusion in a Federal marketing order of provisions for research not be deemed to preclude, preempt, or supersede research provisions in any State program covering the same commodity.
1965—Subsec. (5). Pub. L. 89–321, §§ 101, 102, inserted "which may be adjusted to reflect sales of such milk by any handler or by all handlers in any classification or classifications," before "during a representative period of time" in clause (d) of par. (B) and, following "representative period of time", added "which need not be limited to one year" in completion of the first sentence of clause (d) as well as all the remaining sentences in completion of clause (d), and added par. (H) which thereafter expired December 31, 1970. Pub. L. 90–559, 82 Stat. 996.
Subsec. (6) (I). Pub. L. 89–309 inserted "carrots, citrus fruits, onions, Tokay grapes, fresh pears, dates, plums, nectarines, celery, sweet corn, limes, olives, pecans, or avocados" in the proviso.
1961—Subsec. (2). Pub. L. 87–128, § 141 (3), designated existing provisions as par. (A), included in the exception provision thereof cherries, apples, and cranberries, substituted therein "Idaho, New York, Michigan, Maryland, New
Jersey, Indiana, California, Maine, Vermont, New Hampshire, Rhode Island, Massachusetts, and Connecticut, and not including fruits for canning or freezing other than olives, grapefruit, cherries, cranberries, and apples produced in the States named above except Washington, Oregon, and Idaho)" for "and Idaho, and not including fruits, other than olives and grapefruit, for canning or freezing)," deleted "soybeans" preceding "or freezing," and added par. (B) and the provisions respecting the effectiveness of orders as to cherries, apples and cranberries for canning or freezing, the applicability of orders to peanuts, the treatment of commodities as single commodities and separate agricultural commodities, and the deeming of the covered agricultural commodities and products as specified in the subsection.

Subsec. (19). Pub. L. 87-128, § 141(4), provided for processor referendum for approving order, required referendum in case of an order other than an amendatory order, and a description of the terms and conditions of the proposed order in the ballot used in the conduct of the referendum, and prohibited the use of such description as a basis for attacking legality of orders or any action relating thereto.

1954—Subsec. (2). Act Aug. 28, 1954 § 401(b), made grapefruit for canning and freezing (but not the canned or frozen product) subject to its provisions, and added proviso.

Subsec. (6). Act Aug. 28, 1954, § 401(c), brought within its scope all agricultural commodities specified in subsec. (2) of this section, and added pars. (H) and (1).

Subsec. (7) (C). Act Aug. 28, 1954, § 401(d), provided for the appointment of representatives from the grapefruit for canning processors.

1949—Subsecs. (2) and (6). Act June 29, 1949, made section applicable to filberts and almonds.

1948—Subsec. (17). Act July 3, 1948, § 302(c), struck out "section 608e of this title" which has been repealed.

Subsec. (18). Act July 3, 1948, § 302(b), made the definition of "parity" conform to the definition stated in section 1301 (a) (1) of this title.

1947—Subsec. (2). Act Aug. 1, 1947, inserted "or freezing" after "canning" in two places.

Subsec. (6). Act Aug. 1, 1947, in opening par., inserted "or freezing" after "canning" in two places, reenacted pars. (A)—(E) without change, inserted par. (F), redesignated former par. (F) as "(G)" and reenacted such par. without further change.

1942—Subsec. (6), opening par. Act Feb. 10, 1942, § 2, inserted "and their products" immediately after "hops".


1939—Subsecs. (2), (6). Act May 31, 1939, amended Act June 3, 1937, § 2, by adding subsection (m) thereto, which in turn amended subsecs. (2) and (6) of this section.

1938—Subsec. (2). Act Apr. 13, 1938, § 1, inserted "hops" after "soybeans".

Subsec. (6), Act Apr. 13, 1938, § 2, inserted "hops" after "soybeans and their products".

1937—Subsec. (2). Act Aug. 5, 1937, amended act June 3, 1937, by adding thereto subsec. (k), which in turn amended subsec. (2) by inserting after "except the products of naval stores" the words "and the products of honeybees" and after "soybeans" the word "honeybees".

Subsec. (5) (B) (d). Act June 3, 1937, § 2 (d), substituted "marketings" for "production".

Subsec. (6), Act Aug. 5, 1937, amended act June 3, 1937, by adding subsec. (l), which in turn amended subsec. (6) by inserting after "soybeans and their products," the word "honeybees".

Subsec. (6) (B). Act June 3, 1937, § 2 (e), struck out "produced or" and "production or sales of" and inserted in lieu thereof "quantities available for sale by".

Subsecs. (18) and (19). Act June 3, 1937, § 2 (f), added subsecs. (18) and (19). See note set out under section 601 of this title.

1936—Act June 25, 1936, provided that the Supreme Court of the District of Columbia should thereafter be known as the "district court of the United States for the District of Columbia."
AGRICULTURAL MARKETING AGREEMENT ACT OF 1937

7 U.S.C. § 608c

1935—Section added to the Agricultural Adjustment Act by act Aug. 24, 1935, which also struck out former section 608 (3) of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 2 of Pub. L. 91-196 provided that: "The amendments made by this Act [amending this section] shall be effective only during the period beginning with the date of enactment of this Act [Feb. 20, 1970] and ending two years after such date."

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment of section by act July 3, 1948, effective Jan. 1, 1950, see note set out under section 1301 of this title.

TERMINATION OF 1970 AMENDMENT

Section 201(e) of Pub. L. 91-524 provided that: "The provisions of this section [amending subsec. (5) (B) of this section] shall not be effective after December 31, 1973 except with respect to orders providing for Class I base plans issued prior to such date, but in no event shall any order so issued extend or be effective beyond December 31, 1976."

TERMINATION OF 1965 AMENDMENTS; REVERSION OF STATUS OF PRODUCER HANDLERS OF MILK TO PRE-AMENDMENT STATUS

Sections 103 and 104 of Pub. L. 89-321, as amended by Pub. L. 90-559, § 1(3), Oct. 11, 1968, 82 Stat. 996, provided that:

"SEC. 103. The provisions of this title [amending subsecs. (5) and (18) of this section] shall not be effective after December 31, 1970.

"SEC. 104. The legal status of producer handlers of milk under the provisions of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, shall be the same subsequent to the adoption of the amendments made by this title [amending subsecs. (5) and (18) of this section] as it was prior thereto."

SHORT TITLE

Section 1 of Pub. L. 89-321 provided: "That this Act [enacting sections 1305, 1306, 1316, 1344b, 1379, 1446a-1, and 1838 of this title, amending this section and sections 1301, 1314b, 1322, 1333, 1334, 1355, 1339, 1339a, 1339c, 1340, 1346, 1348, 1350, 1353, 1374, 1379b, 1379c, 1379d, 1379f, 1379g, 1379i, 1428, 1427, 1428, 1444, 1446a, 1782, and 1339, 1379c, and 1427 notes of this title and section 590p of Title 16, repealing sections 1801-1816, 1821-1824, 1821, and 1832-1837 of this title, and enacting provisions set out as notes under this section and sections 1282, 1301, 1332, 1339, 1350, 1359, 1379b, 1979c, 1379d, 1379i, 1428, 1441, and 1445a of this title and section 590p of Title 16] may be cited as the 'Food and Agriculture Act of 1965'."

RETENTION OF STATUS OF PRODUCER HANDLERS OF MILK AT PRE-1970 AMENDMENT STATUS

Section 201(b) of Pub. L. 91-524 provided that: "The legal status of producer handlers of milk under the provisions of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, shall be the same subsequent to the adoption of the amendments made by this Act [amending subsec. (5) (B) of this section] as it was prior thereto."

RATIFICATION, LEGALIZATION, CONFIRMATION, AND EXTENSION OF CLASS I BASE PLAN PROVISIONS IN MARKETING ORDERS ISSUED PRIOR TO NOV. 30, 1970

Section 201(c) of Pub. L. 91-524 provided that: "Nothing in subsection (a) of this section 201 [amending sub-sec. (5) (B) of this section] shall be construed as invalidating any class I base plan provisions of any marketing order previously issued by the Secretary of Agriculture pursuant to authority contained in the Food and Agriculture Act of 1965 (79 Stat. 1187), but such provisions are expressly ratified, legalized, and confirmed and may be extended through and including December 31, 1971."
REAFFIRMATION OF SUBSEC. (5) (G) OF THIS SECTION

Section 201 (d) of Pub. L. 91-524 provided that: "It is not intended that existing law be in any way altered, rescinded, or amended with respect to section 8c(5) (G) of the Agricultural Adjustment Act, as renacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended [subsec. (5) (G) of this section], and such section 8c(5) (G) is fully re-affirmed."

VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, affirmed and validated, and reenacted without change the provisions of this section, except for the amendments to subsections (5) (B) (d) and (6) (B) by section 2 of the act, and the addition of subsections (18) and (19) by said section 2. See note to section 601 of this title.

§ 608d. Books and records; disclosure of information.

(1) All parties to any marketing agreement, and all handlers subject to an order, shall severally, from time to time, upon the request of the Secretary, furnish him with such information as he finds to be necessary to enable him to ascertain and determine the extent to which such agreement or order has been carried out or has effectuated the declared policy of this chapter and with such information as he finds to be necessary to determine whether or not there has been any abuse of the privilege of exemptions from the antitrust laws. Such information shall be furnished in accordance with forms of reports to be prescribed by the Secretary. For the purpose of ascertaining the correctness of any report made to the Secretary pursuant to this subsection, or for the purpose of obtaining the information required in any such report, where it has been requested and has not been furnished, the Secretary is authorized to examine such books, papers, records, copies of income-tax reports, accounts, correspondence, contracts, documents, or memoranda, as he deems relevant and which are within the control of any such party to such marketing agreement, or of any such handler, from whom such report was requested or (2) of any person having, either directly or indirectly, actual or legal control of or over such party or such handler or (3) of any subsidiary of any such party, handler, or person.

(2) Notwithstanding the provisions of section 607 of this title, all information furnished to or acquired by the Secretary of Agriculture pursuant to this section shall be kept confidential by all officers and employees of the Department of Agriculture and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary of Agriculture, or to which he or any officer of the United States is a party, and involving the marketing agreement or order with reference to which the information so to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit (A) the issuance of general statements based upon the reports of a number of parties to a marketing agreement or of handlers subject to an order, which statements do not identify the information furnished by any person, or (B) the
publication by direction of the Secretary, of the name of any person violating any marketing agreement or any order, together with a statement of the particular provisions of the marketing agreement or order violated by such person. Any such officer or employee violating the provisions of this section shall upon conviction be subject to a fine of not more than $1,000 or to imprisonment for not more than one year, or to both, and shall be removed from office. (May 12, 1933, ch. 25, title I, § 8d, as added Aug. 24, 1935, ch. 641, § 6, 49 Stat. 761, and amended June 3, 1937, ch. 296, § 1, 50 Stat. 246.)

CODIFICATION

Act Aug. 24, 1935, struck out provisions of section 8 (4) of act May 12, 1933, formerly appearing in section 608 (4) of this title and added a new section 8d containing provisions now appearing in text.

VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, affirmed and validated, and reenacted without change the provisions of this section. See note to section 601 of this title.


Section, acts May 12, 1933, ch. 25, title I, § 8e, as added Aug. 24, 1935, ch. 641, § 6, 49 Stat. 762, and amended June 3, 1937, ch. 296, § 1, 50 Stat. 246, related to determination of base period.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1950, see note set out under section 1301 of this title.

§ 608e–1. Import prohibitions on tomatoes, avocados, limes, etc.; rules and regulations.

Notwithstanding any other provision of law, whenever a marketing order issued by the Secretary of Agriculture pursuant to section 608c of this title contains any terms or conditions regulating the grade, size, quality, or maturity of tomatoes, raisins, olives (other than Spanish-style green olives), prunes, avocados, mangoes, limes, grapefruit, green peppers, Irish potatoes, cucumbers, oranges, onions, walnuts, dates, or eggplants produced in the United States the importation into the United States of any such commodity, other than dates for processing, during the period of time such order is in effect shall be prohibited unless it complies with the grade, size, quality, and maturity provisions of such order or comparable restrictions promulgated hereunder: Provided, That this prohibition shall not apply to such commodities when shipped into continental United States from the Commonwealth of Puerto Rico or any Territory or possession of the United States where this chapter has force and effect: Provided further, That whenever two or more such marketing orders regulating the same agricultural commodity produced in different areas of the United States are concurrently in effect, the importation into the United States of any such commodity, other than dates for processing,
shall be prohibited unless it complies with the grade, size, quality, and maturity provisions of the order which, as determined by the Secretary of Agriculture, regulates the commodity produced in the area with which the imported commodity is in most direct competition. Such prohibition shall not become effective until after the giving of such notice as the Secretary of Agriculture determines reasonable, which shall not be less than three days. In determining the amount of notice that is reasonable in the case of tomatoes the Secretary of Agriculture shall give due consideration to the time required for their transportation and entry into the United States after picking. Whenever the Secretary of Agriculture finds that the application of the restrictions under a marketing order to an imported commodity is not practicable because of variations in characteristics between the domestic and imported commodity he shall establish with respect to the imported commodity, other than dates for processing, such grade, size, quality, and maturity restrictions by varieties, types, or other classifications as he finds will be equivalent or comparable to those imposed upon the domestic commodity under such order. The Secretary of Agriculture may promulgate such rules and regulations as he deems necessary, to carry out the provisions of this section. Any person who violates any provision of this section or of any rule, regulation, or order promulgated hereunder shall be subject to a forfeiture in the amount prescribed in section 608a(5) of this title or, upon conviction, a penalty in the amount prescribed in section 608c(14) of this title, or to both such forfeiture and penalty.


AMENDMENTS

1971—Pub. L. 91–670 extended the import prohibition to raisins, olives (other than Spanish-style green olives), and prunes.

1961—Pub. L. 87–128 extended the importation prohibition to oranges, onions, walnuts and dates, other than dates for processing.


EFFECTIVE DATE OF 1954 AMENDMENT

Section 3 (b) of act Aug. 31, 1954, provided that the amendment of this section shall become effective Aug. 31, 1954.

§ 610. Administration.

(a) Appointment of officers and employees; impounding appropriations.

The Secretary of Agriculture may appoint such officers and employees, subject to the provisions of chapter 51 and subchapter III of chapter 53 of Title 5, and such experts, as are necessary to

1 "If" in original. Probably should be "of".
execute the functions vested in him by this chapter: Provided, That the Secretary shall establish the Agricultural Adjustment Administration in the Department of Agriculture for the administration of the functions vested in him by this chapter: And provided further, That the State Administrator appointed to administer this chapter in each State shall be appointed by the President, by and with the advice and consent of the Senate. Section 8 of Title II of the Act entitled “An Act to maintain the credit of the United States Government,” approved March 20, 1933, to the extent that it provides for the impoundment of appropriations on account of reductions in compensation, shall not operate to require such impoundment under appropriations contained in this chapter.

(b) State and local committees or associations of producers; handlers' share of expenses of authority or agency.

(1) The Secretary of Agriculture is authorized to establish, for the more effective administration of the functions vested in him by this chapter, State and local committees, or associations of producers, and to permit cooperative associations of producers, when in his judgment they are qualified to do so, to act as agents of their members and patrons in connection with the distribution of payments authorized to be made under section 608 of this title. The Secretary, in the administration of this chapter, shall accord such recognition and encouragement to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in existing Acts of Congress, and as will tend to promote efficient methods of marketing and distribution.

(2) (i) Each order relating to milk and its products issued by the Secretary under this chapter shall provide that each handler subject thereto shall pay to any authority or agency established under such order such handler's pro rata share (as approved by the Secretary) of such expenses as the Secretary may find will necessarily be incurred by such authority or agency, during any period specified by him, for the maintenance and functioning of such authority or agency, other than expenses incurred in receiving, handling, holding, or disposing of any quantity of milk or products thereof received, handled, held, or disposed of by such authority or agency for the benefit or account of persons other than handlers subject to such order. The pro rata share of the expenses payable by a cooperative association of producers shall be computed on the basis of the quantity of milk or product thereof covered by such order which is distributed, processed, or shipped by such cooperative association of producers.

(ii) Each order relating to any other commodity or product issued by the Secretary under this chapter shall provide that each handler subject thereto shall pay to any authority or agency established under such order such handler's pro rata share (as approved by the Secretary) of such expenses as the Secretary may find are reasonable and are likely to be incurred by such authority or agency, during any period specified by him, for such purposes as
the Secretary may, pursuant to such order, determine to be appro-
appropriate, and for the maintenance and functioning of such authority
or agency, other than expenses incurred in receiving, handling,
holding, or disposing of any quantity of a commodity received,
handled, held, or disposed of by such authority or agency for the
benefit or account of persons other than handlers subject to such
order. The pro rata share of the expenses payable by a cooperative
association of producers shall be computed on the basis of the
quantity of the agricultural commodity or product thereof covered
by such order which is distributed, processed, or shipped by such
cooperative association of producers. The payment of assessments
for the maintenance and functioning of such authority or agency,
as provided for herein, may be required under a marketing agree-
ment or marketing order throughout the period the marketing
agreement or order is in effect and irrespective of whether par-
ticular provisions thereof are suspended or become inoperative.

(iii) Any authority or agency established under an order may
maintain in its own name, or in the name of its members, a suit
against any handler subject to an order for the collection of such
handler’s pro rata share of expenses. The several district courts of
the United States are vested with jurisdiction to entertain such
suits regardless of the amount in controversy.

(c) Regulations; penalty for violation.

The Secretary of Agriculture is authorized, with the approval
of the President, to make such regulations with the force and effect
of law as may be necessary to carry out the powers vested in him
by this chapter. Any violation of any regulation shall be subject
to such penalty, not in excess of $100, as may be provided therein.

(f) Geographical application.

The provisions of this chapter shall be applicable to the United
States and its possessions, except the Virgin Islands, American
Samoa, the Canal Zone, and the island of Guam; except that, in the
case of sugar beets and sugarcane, the President, if he finds it
necessary in order to effectuate the declared policy of this chapter,
is authorized by proclamation to make the provisions of this chap-
ter applicable to the Virgin Islands, American Samoa, the Canal
Zone, and/or the island of Guam.

(g) Officers; dealing or speculating in agricultural products; pen-
alties.

No person shall, while acting in any official capacity in the
administration of this chapter, speculate, directly or indirectly, in
any agricultural commodity or product thereof, to which this
chapter applies, or in contracts relating thereto, or in the stock
or membership interest of any association or corporation engaged
in handling, processing, or disposing of any such commodity or
product. Any person violating this subsection shall upon convic-
tion thereof be fined not more than $10,000 or imprisoned not
more than two years, or both.
(h) Adoption of Federal Trade Commission Act; hearings; report of violations to Attorney General.

For the efficient administration of the provisions of this chapter, the provisions, including penalties, of sections 48, 49, and 50 of Title 15, are made applicable to the jurisdiction, powers, and duties of the Secretary in administering the provisions of this chapter, and to any person subject to the provisions of this chapter, whether or not a corporation. Hearings authorized or required under this chapter shall be conducted by the Secretary of Agriculture or such officer or employee of the Department as he may designate for the purpose. The Secretary may report any violation of any agreement entered into under this chapter, to the Attorney General of the United States, who shall cause appropriate proceedings to enforce such agreement to be commenced and prosecuted in the proper courts of the United States without delay.

(i) Cooperation with State authorities; imparting information.

The Secretary of Agriculture upon the request of the duly constituted authorities of any State is directed, in order to effectuate the declared policy of this chapter and in order to obtain uniformity in the formulation, administration, and enforcement of Federal and State programs relating to the regulation of the handling of agricultural commodities or products thereof, to confer with and hold joint hearings with the duly constituted authorities of any State, and is authorized to cooperate with such authorities; to accept and utilize, with the consent of the State, such State and local officers and employees as may be necessary; to avail himself of the records and facilities of such authorities; to issue orders (subject to the provisions of section 608c of this title) complementary to orders or other regulations issued by such authorities; and to make available to such State authorities the records and facilities of the Department of Agriculture: Provided, That information furnished to the Secretary of Agriculture pursuant to section 608d (1) of this title shall be made available only to the extent that such information is relevant to transactions within the regulatory jurisdiction of such authorities, and then only upon a written agreement by such authorities that the information so furnished shall be kept confidential by them in a manner similar to that required of Federal officers and employees under the provisions of section 608d (2) of this title.

(j) Definitions.

The term “interstate or foreign commerce” means commerce between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof; or within any Territory or possession, or the District of Columbia. For the purpose of this chapter (but in no wise limiting the foregoing definition) a marketing transaction in respect to an agricultural commodity or the
product thereof shall be considered in interstate or foreign commerce if such commodity or product is part of that current of interstate or foreign commerce usual in the handling of the commodity or product whereby they, or either of them, are sent from one State to end their transit, after purchase, in another, including all cases where purchase or sale is either for shipment to another State or for the processing within the State and the shipment outside the State of the products so processed. Agricultural commodities or products thereof normally in such current of interstate or foreign commerce shall not be considered out of such current through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of said sections. As used herein, the word "State" includes Territory, the District of Columbia, possession of the United States, and foreign nations.


REFERENCES IN TEXT

Section 8 of title II of the Act entitled "An Act to maintain the credit of the United States Government," referred to in subsec. (a), means act Mar. 20, 1933, ch. 3, title II, § 8, 48 Stat. 15, and is not classified to the code.

CODIFICATION

Provisions of subsec. (a), which authorized appointment of officers and employees without regard to the civil-service laws and regulations and which limited the maximum salary payable to any officer or employee to not more than $10,000 per annum, were omitted as obsolete and superseded.

The authority for covering excepted positions into the classified civil service was given the President by section 3301 of Title 5, Government Organization and Employees. By Executive Order 8743, Apr. 25, 1941, set out as a note under section 3301 of Title 5, the President exercised this authority with respect to many previously excepted positions.

For positions now covered by the Classification Act of 1949, see section 5101 et seq. of Title 5. For the power of the Civil Service Commission to determine the applicability of those sections to specific positions, see section 5103 of Title 5.

References to the Philippine Islands in subsec. (f) of this section were omitted as obsolete in view of the independence of the Philippine Islands, proclaimed by the President of the United States in Proc. No. 2695, which is set out as a note under section 1394 of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1949—Subsec. (a). Act Oct. 28, 1949, substituted the "Classification Act of 1949" for the "Classification Act of 1923", which has been editorially translated to "chapter 51 and subchapter III of chapter 53 of Title 5."

1947—Subsec. (b)(2). Act Aug. 1, 1947, among other changes, inserted subpar. (i), designated former first and second sentences of subsection as subpar. (ii) and added final sentence relating to the payment of assessments for the maintenance and functioning of such authority thereto, and designated former third and fourth sentences of subsection as subpar. (iii).
1937—Subsec. (c). Act June 3, 1937, § 2(g), deleted last clause of first sentence which related to regulations establishing conversion factors for any commodity and article processed therefrom to determine the amount of tax imposed or refunds to be made with respect thereto. 
Subsec. (f). Act June 3, 1937, § 2(b), deleted the sentence which authorized the President to attach by executive order any or all possessions to any internal-revenue district for the purpose of carrying out provisions with respect to the collection of taxes.
1936—Subsec. (d). Act June 22, 1936, reenacted subsec. (d) for refund purposes.
1935—Subsec. (b). Act Aug. 24, 1935, § 16, among other changes, added "The Secretary, * * * amount in controversy" at the end of the first sentence.
Subsec. (e). Act Aug. 24, 1935, § 17 struck out "rental or benefit payment" and inserted in lieu thereof "payment authorized to be made under section 8".
Subsec. (f). Act Aug. 26, 1935, added the sentence authorizing the President to attach by executive order any or all possessions to any internal-revenue district for the purpose of carrying out provisions with respect to the collection of taxes.
Subsec. (i). Act Aug. 24, 1935, § 18, added subsec. (i)
1934—Subsec. (f). Act May 9, 1934, added the exception provision.
1933—Subsec. (a). Act June 16, 1933, added "And provided further, * * * and consent of the Senate" after the end of the first sentence.
VALIDITY OF SECTION AFFIRMED
Act June 3, 1937, § 1, affirmed, validated, and reenacted without change the provisions of subsecs. (a), (b) (2), (c), and (f) — (i) of this section, except for the amendments to subsecs. (c) and (f) by section 2 of the act. See note to section 601 of this title.
APPROPRIATIONS FOR REFUNDS AND PAYMENTS OF PROCESSING AND RELATED TAXES AND LIMITATIONS THEREON
Ex. Ord. No. 10199. REGULATIONS WITHOUT APPROVAL OF PRESIDENT
Ex. Ord. No. 10199, Dec. 21, 1950, 15 F.R. 9217, provided: By virtue of the authority vested in me by the act of August 8, 1950, Public Law 673, 81st Congress [sections 301—303 of Title 3] I hereby authorize the Secretary of Agriculture to make without the approval of the President such regulations with the force and effect of law as may be necessary to carry out the powers vested in him by the Agricultural Marketing Agreement Act of 1937, as amended [this chapter].
§ 612. Appropriation; use of revenues; administrative expenses.
(a) There is appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $100,000,000 to be available to the Secretary of Agriculture for administrative expenses under this chapter, and for payments authorized to be made under section 608 of this title. Such sum shall remain available until expended. To enable the Secretary of Agriculture to finance under such terms and conditions as he may prescribe, surplus reductions with respect to the dairy- and beef-cattle industries, and to carry out any of the purposes described in subsections (a) and (b) of this section and to support and balance the markets for the dairy and beef cattle industries, there is authorized to be appropriated, out of any
money in the Treasury not otherwise appropriated, the sum of $200,000,000: Provided, That not more than 60 per centum of such amount shall be used for either of such industries.

(c) The administrative expenses provided for under this section shall include, among others, expenditures for personal services and rent in the District of Columbia and elsewhere, for law books and books of reference, for contract stenographic reporting services, and for printing and paper in addition to allotments under the existing law. The Secretary of Agriculture shall transfer to the Treasury Department, and is authorized to transfer to other agencies, out of funds available for administrative expenses under this chapter, such sums as are required to pay administrative expenses incurred and refunds made by such department or agencies in the administration of this chapter. (May 12, 1933, ch. 25, title I, § 12, 48 Stat. 38; Apr. 7, 1934, ch. 103, § 2, 48 Stat. 528; Aug. 24, 1935, ch. 641, §§ 3, 19, 49 Stat. 753, 768; June 3, 1937, ch. 296, §§ 1, 2 (j), 50 Stat. 246, 248.)

VALIDITY OF SECTION AFFIRMED
Act June 3, 1937, § 1, affirmed and validated, and reenacted without change the provisions of subsecs. (a) and (c) of this section, except for the amendment to subsec. (a) by section 2 of the act. See note to section 601 of this title.

SETTLEMENT OF CERTAIN CLAIMS AND ACCOUNTS
Act June 5, 1942, ch. 349, §§ 2, 3, 56 Stat. 324, authorized Comptroller General to relieve disbursing and certifying officers from liability for payments made prior to January 6, 1936, under Agricultural Adjustment Act of 1933 or amendments thereto [this chapter] or under the appropriation "Payments for Agricultural Adjustment" in act Feb. 11, 1936, ch. 49, 49 Stat. 1116, upon certificate of Secretary of Agriculture that such payments were made in good faith, and also provided that no action should be taken to recover such excess payments, if the Secretary of Agriculture should further certify that in view of the good faith of the parties or other circumstances of the case, such attempt to recover them would be inadvisable or inequitable.

§ 614. Separability of provisions.

If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person, circumstance, or commodity is held invalid the validity of the remainder of this chapter and the applicability thereof to other persons, circumstances, or commodities shall not be affected thereby. (May 12, 1933, ch. 25, title I, § 14, 48 Stat. 39; June 3, 1937, ch. 296; § 1, 50 Stat. 246.)

VALIDITY OF SECTION AFFIRMED
Act June 3, 1937, § 1, affirmed and validated, and reenacted without change the provisions of this section. See note to section 601 of this title.

§ 624. Limitation on imports; authority of President.

(a) Whenever the Secretary of Agriculture has reason to believe that any article or articles are being or are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, any program or operation undertaken
under this chapter or the Soil Conservation and Domestic Allotment Act, as amended, or section 612c of this title, or any loan, purchase, or other program or operation undertaken by the Department of Agriculture, or any agency operating under its direction, with respect to any agricultural commodity or product thereof, or to reduce substantially the amount of any product processed in the United States from any agricultural commodity or product thereof with respect to which any such program or operation is being undertaken, he shall so advise the President, and, if the President agrees that there is reason for such belief, the President shall cause an immediate investigation to be made by the United States Tariff Commission, which shall give precedence to investigations under this section to determine such facts. Such investigation shall be made after due notice and opportunity for hearing to interested parties, and shall be conducted subject to such regulations as the President shall specify.

(b) If, on the basis of such investigation and report to him of findings and recommendations made in connection therewith, the President finds the existence of such facts, he shall by proclamation impose such fees not in excess of 50 per centum ad valorem or such quantitative limitations on any article or articles which may be entered, or withdrawn from warehouse, for consumption as he finds and declares shown by such investigation to be necessary in order that the entry of such article or articles will not render or tend to render ineffective, or materially interfere with, any program or operation referred to in subsection (a) of this section, or reduce substantially the amount of any product processed in the United States from any such agricultural commodity or product thereof with respect to which any such program or operation is being undertaken: Provided, That no proclamation under this section shall impose any limitation on the total quantity of any article or articles which may be entered, or withdrawn from warehouse, for consumption which reduces such permissible total quantity to proportionately less than 50 per centum of the total quantity of such article or articles which was entered, or withdrawn from warehouse, for consumption during a representative period as determined by the President: And provided further, That in designating any article or articles, the President may describe them by physical qualities, value, use, or upon such other bases as he shall determine.

In any case where the Secretary of Agriculture determines and reports to the President with regard to any article or articles that a condition exists requiring emergency treatment, the President may take immediate action under this section without awaiting the recommendations of the Tariff Commission, such action to continue in effect pending the report and recommendations of the Tariff Commission and action thereon by the President.

(c) The fees and limitations imposed by the President by proclamation under this section and any revocation, suspension, or modification thereof, shall become effective on such date as shall be therein specified, and such fees shall be treated for adminis-
trative purposes and for the purposes of section 612c of this title, as duties imposed by the Tariff Act of 1930, but such fees shall not be considered as duties for the purpose of granting any preferential concession under any international obligation of the United States.

(d) After investigation, report, finding, and declaration in the manner provided in the case of a proclamation issued pursuant to subsection (b) of this section, any proclamation or provision of such proclamation may be suspended or terminated by the President whenever he finds and proclaims that the circumstances requiring the proclamation or provision thereof no longer exist or may be modified by the President whenever he finds and proclaims that changed circumstances require such modification to carry out the purposes of this section.

(e) Any decision of the President as to facts under this section shall be final.


REFERENCES IN TEXT

The Soil Conservation and Domestic Allotment Act, as amended, referred to in subsection (a), is classified to chapter 3B of Title 16, Conservation.

The Tariff Act of 1930, referred to in subsection (c), is classified to chapter 4 of Title 19, Customs Duties.

AMENDMENTS

1953—Subsec. (b) amended by subsec. (c) of section 8 of act June 16, 1951, as added to section 8 by act Aug. 7, 1953, which added second paragraph to subsec. (b).

1951—Subsec. (f). Act June 16, 1951, amended subsec. (f) generally to provide that no trade agreement concessions can be construed to interfere with the operation of agricultural programs.

1950—Subsec. (a). Act June 28, 1950, placed upon the Secretary of Agriculture the responsibility of notifying the President whenever the Secretary believes or has reason to believe that any article or articles are being or practically certain to be brought into this country so as to render, or tend to render ineffective or materially interfere with programs undertaken under this chapter.

Subsecs. (b) — (e). Act June 28, 1950, reenacted subsecs. (b) — (e) without change.

Subsec. (f). Act June 28, 1950, made certain that future international agreements or amendments to existing agreements give effect to this section within the framework of the general agreement on tariffs and trade.

1948—Act July 3, 1948, amended section generally to extend the authority of this section to agriculture products as well as commodities; to extend such authority to cover articles the import of which affects any loan, purchase, or other Departmental operation or program; to make quantitative limitation restrictions applicable to the total quantity of an article imported during a representative period as determined by the President, rather than to each country's average annual quantity of the article imported during the period from Jan. 1, 1929, to Dec. 31, 1933, as formerly provided; to give the President
a specific grant of authority to describe designated articles by physical qualities, value, use, or upon such bases as he determines; to clarify the definition respecting authorized fees, which formerly were considered duties for some purposes, so that they no longer shall be considered as duties for the purpose of granting any preferential concession under any international obligation of the United States; and, to prohibit the enforcement of a proclamation under this section which would be in contravention to any treaty or international agreement to which the United States is a part.


1936—Act Feb. 29, 1936, inserted after “this title” wherever the words appear “the Soil Conservation and Domestic Allotment Act”, and struck out “an adjustment” wherever the words appeared and inserted in lieu thereof “any”.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 6 of act July 3, 1948, provided that the amendment of this section by section 3 of act July 3, 1948, shall be effective July 3, 1948.

VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, affirmed and validated, and reenacted without change the provisions of this section. See note to section 601 of this title.

§ 671. Arbitration of disputes concerning milk.

(a) Application.

The Secretary of Agriculture, or such officer or employee of the Department of Agriculture as may be designated by him, upon written application of any cooperative association, incorporated or otherwise, which is in good faith owned or controlled by producers or organizations thereof, of milk or its products, and which is bona fide engaged in collective processing or preparing for market or handling or marketing (in the current of interstate or foreign commerce, as defined by section 610 (j) of this title), milk or its products, may mediate and, with the consent of all parties, shall arbitrate if the Secretary has reason to believe that the declared policy of the Agricultural Adjustment Act, as amended, would be effectuated thereby, bona fide disputes, between such associations and the purchasers or handlers or processors or distributors of milk or its products, as to terms and conditions of the sale of milk or its products. The power to arbitrate under this section shall apply only to such subjects of the term or condition in dispute as could be regulated under the provisions of the Agricultural Adjustment Act, as amended, relating to orders for milk and its products.

(b) Conduct of meetings.

Meetings held pursuant to this section shall be conducted subject to such rules and regulations as the Secretary may prescribe.

(c) Approval of award.

No award or agreement resulting from any such arbitration or mediation shall be effective unless and until approved by the Secretary of Agriculture, or such officer or employee of the Department of Agriculture as may be designated by him, and shall not be approved if it permits any unlawful trade practice or any unfair method of competition.
(d) Exemption from antitrust laws.

No meeting so held and no award or agreement so approved shall be deemed to be in violation of any of the antitrust laws of the United States. (June 3, 1937, ch. 296, § 3, 50 Stat. 248.)

REFERENCES IN TEXT

The Agricultural Adjustment Act, as amended, referred to in subsec. (a), is classified to sections 601—604, 607, 608, 608a, 608b, 608c, 608d, 608e—1, to 612, 613, 614—619, 620, 623 and 624 of this title.

The antitrust laws, referred to in subsec. (d), are classified to section 1 et seq. of Title 15, Commerce and Trade.

§ 672. Agreements; licenses, regulations, programs, etc., unaffected.

(a) Nothing in this Act shall be construed as invalidating any marketing agreement, license, or order, or any regulation relating to, or any provision of, or any act of the Secretary of Agriculture in connection with, any such agreement, license, or order which has been executed, issued, approved, or done under the Agricultural Adjustment Act, or any amendment thereof, but such marketing agreements, licenses, orders, regulations, provisions, and acts are expressly ratified, legalized, and confirmed.

(b) Any program in effect under sections 601, 602, 608a to 608c, 608d, 610, 612, 614, and 624 of this title, on January 1, 1950, shall continue in effect without the necessity for any amendatory action relative to such program, but any such program shall be continued in operation by the Secretary of Agriculture only to establish and maintain such orderly marketing conditions as will tend to effectuate the declared purpose set out in section 602 or 608c of this title. (June 3, 1937, ch. 296, § 4, 50 Stat. 249; July 3, 1948, ch. 827, title III, § 302 (e), 62 Stat. 1258.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), refers to act June 3, 1937, ch. 296, 50 Stat. 249. Sections 1 and 2 of that act amended sections 601, 602, 608a, 608b, 608c, 608d, 610, 612, 614, and 624 of this title, and sections 3—6 comprised this chapter.

The Agricultural Adjustment Act, as amended, referred to in subsec. (a), is classified to sections 601—604, 607, 608, 608a, 608b, 608c, 608d, 608e—1, to 612, 613, 614—619, 620, 623 and 624 of this title.

AMENDMENTS


EFFECTIVE DATE OF 1948 AMENDMENT

Amendment of section by act July 3, 1948, effective Jan. 1, 1950, see note set out under section 1301 of this title.

§ 673. Taxes under Agricultural Adjustment Act; laws unaffected.

No processing taxes or compensating taxes shall be levied or collected under the Agricultural Adjustment Act, as amended. Except as provided in the preceding sentence, nothing in this Act shall be
AGRICULTURAL MARKETING AGREEMENT ACT OF 1937

7 U.S.C. §§ 673, 674

construed as affecting provisions of the Agricultural Adjustment Act, as amended, other than those enumerated in section 1 of Act of June 3, 1937, ch. 296, 50 Stat. 246. The provisions so enumerated shall apply in accordance with their terms (as amended by this Act) to the provisions of sections 601 to 608, 608a, 608b, 608c, 608d to 612, 613, 614 to 619, 620, 623 and 624 of this title, this chapter and other provisions of law to which they have been heretofore made applicable. (June 3, 1937, ch. 296, § 5, 50 Stat. 249.)

REFERENCES IN TEXT

The Agricultural Adjustment Act, as amended, referred to in the text, is classified to sections 601–604, 607, 608, 608a, 608b, 608c, 608d, 608e–1, to 612, 613, 614–619, 620, 623, and 624 of this title.

This Act, referred to in the text, refers to act June 3, 1937, ch. 296, 50 Stat. 249. Sections 1 and 2 of said act amended sections 601, 602, 608a, 608b, 608c, 608d, 610, 612, 614, and 624 of this title, and sections 3–6 comprised this chapter.

§ 674. Short title.

CODIFICATION

Section, act June 3, 1937, ch. 296, § 6, 50 Stat. 249, provided that such act might be cited as the Agricultural Marketing Agreement Act of 1937. Sections 1 and 2 of that act amended sections 601, 602, 608a, 608b, 608c, 608d, 608e, 610, 612, 614, and 624 of this title, and sections 3–6 of that act comprised this chapter.
APPENDIX TO

COMPILATION OF

AGRICULTURAL MARKETING AGREEMENT ACT

OF 1937 AS AMENDED
§ 450. Cooperation with State agencies in administration and enforcement of laws relating to marketing of agricultural products and control or eradication of plant and animal diseases and pests; coordination of administration of Federal and State laws.

In order to avoid duplication of functions, facilities, and personnel, and to attain closer coordination and greater effectiveness and economy in administration of Federal and State laws and regulations relating to the marketing of agricultural products and to the control or eradication of plant and animal diseases and pests, the Secretary of Agriculture is authorized, in the administration and enforcement of such Federal laws within his area of responsibility, whenever he deems it feasible and in the public interest, to enter into cooperative arrangements with State departments of agriculture and other State agencies charged with the administration and enforcement of such State laws and regulations and to provide that any such State agency which has adequate facilities, personnel, and procedures, as determined by the Secretary, may assist the Secretary in the administration and enforcement of such Federal laws and regulations to the extent and in the manner he deems appropriate in the public interest.

Further, the Secretary is authorized to coordinate the administration of such Federal laws and regulations with such State laws and regulations wherever feasible. However, nothing herein shall affect the jurisdiction of the Secretary of Agriculture under any Federal law, or any authority to cooperate with State agencies or other agencies or persons under existing provisions of law, or affect any restrictions of law upon such cooperation. (Pub. L. 87–718, Sept. 28, 1962, 76 Stat. 663.)

§ 450a. Cooperative research projects; agreements with and receipt of funds from State and other agencies.

On and after December 30, 1963, the Administrator of the Agricultural Research Service may enter into agreements with and received funds from any State, other political subdivision, organization, or individual for the purpose of conducting cooperative research projects with such cooperators. (Pub. L. 88–250, title I, § 101, Dec. 30, 1963, 77 Stat. 820.)

§ 450b. Cooperation with State and other agencies; expenditures.

In carrying on the activities of the Department of Agriculture involving cooperation with State, county, and municipal agencies, associations of farmers, individual farmers, universities, colleges, boards of trade, chambers of commerce, or other local associations
of business men, business organizations, and individuals within the State, Territory, district, or insular possession in which such activities are to be carried on, moneys contributed from such outside sources, except in the case of the authorized activities of the Forest Service, shall be paid only through the Secretary of Agriculture or through State, county, or municipal agencies, or local farm bureaus or like organizations, cooperating for the purpose with the Secretary of Agriculture. (July 24, 1919, ch. 26, 41 Stat. 270.)
FEDERAL TRADE COMMISSION ACT

15 U.S.C. §§ 48, 49

SELECTED PROVISIONS OF THE FEDERAL TRADE COMMISSION ACT

§ 48. Information and assistance from departments

The several departments and bureaus of the Government when directed by the President shall furnish the commission, upon its request, all records, papers, and information in their possession relating to any corporation subject to any of the provisions of sections 41–46 and 47–58 of this title, and shall detail from time to time such officials and employees to the commission as he may direct. (Sept. 26, 1914, c. 311, § 8, 38 Stat. 722).

§ 49. Documentary evidence; depositions; witnesses

For the purposes of sections 41–46 and 47–58 of this title the commission, or its duly authorized agent or agents, shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any corporation being investigated or proceeded against; and the commission shall have power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation. Any member of the commission may sign subpoenas, and members and examiners of the commission may administer oaths and affirmations, examine witnesses, and receive evidence.

Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing. And in case of disobedience to a subpoena the commission may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence.

Any of the district courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any corporation or other person, issue an order requiring such corporation or other person to appear before the commission, or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

Upon the application of the Attorney General of the United States, at the request of the commission, the district courts of the United States shall have jurisdiction to issue writs of mandamus commanding any person or corporation to comply with the provisions of sections 41–46 and 47–58 of this title or any order of the commission made in pursuance thereof.

The commission may order testimony to be taken by deposition in any proceeding or investigation pending under said sections at
any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the commission and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the commission as hereinbefore provided.

Witnesses summoned before the commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States. (Sept. 26, 1914, c. 311, § 9, 38 Stat. 722. As amended Oct. 15, 1970, Pub. L. 91–52, Title II, § 211, 84 Stat. 929).

§ 50. Offenses and penalties

Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry or to produce documentary evidence, if in his power to do so, in obedience to the subpoena or lawful requirement of the commission, shall be guilty of an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than $1,000 nor more than $5,000, or by imprisonment for not more than one year, or by both such fine and imprisonment.

Any person who shall willfully make, or cause to be made, any false entry or statement of fact in any report required to be made under sections 41–46 and 47–58 of this title, or who shall willfully make, or cause to be made, any false entry in any account, record, or memorandum kept by any corporation subject to said sections, or who shall willfully neglect or fail to make, or to cause to be made, full, true, and correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of such corporation, or who shall willfully remove out of the jurisdiction of the United States, or willfully mutilate, alter, or by any other means falsify any documentary evidence of such corporation, or who shall willfully refuse to submit to the commission or to any of its authorized agents, for the purpose of inspection and taking copies, any documentary evidence of such corporation in his possession or within his control, shall be deemed guilty of an offense against the United States, and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than $1,000 nor more than $5,000, or to imprisonment for a term of not more than three years, or to both such fine and imprisonment.

If any corporation required by sections 41–46 and 47–58 of this title to file any annual or special report shall fail so to do within the time fixed by the commission for filing the same, and such
failure shall continue for thirty days after notice of such default, the corporation shall forfeit to the United States the sum of $100 for each and every day of the continuance of such failure, which forfeiture shall be payable into the Treasury of the United States, and shall be recoverable in a civil suit in the name of the United States brought in the district where the corporation has its principal office or in any district in which it shall do business. It shall be the duty of the various United States attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of forfeitures. The costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

Any officer or employee of the commission who shall make public any information obtained by the commission without its authority, unless directed by a court, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding $5,000, or by imprisonment not exceeding one year, or by fine and imprisonment, in the discretion of the court. (Sept. 26, 1914, c. 311, § 10, 38 Stat. 723; June 25, 1948, c. 646, § 1, 62 Stat. 909).
ORGANIZED CRIME CONTROL ACT OF 1970

18 U.S.C. § 201

SELECTED PROVISIONS OF THE ORGANIZED CRIME
CONTROL ACT OF 1970

* * * * *

TITLE II — GENERAL IMMUNITY

Sec. 201. (a) Title 18, United States Code, is amended by adding immediately after part IV the following new part:

PART V.—IMMUNITY OF WITNESSES

Sec.
6001. Definitions.
6002. Immunity generally.
6003. Court and grand jury proceedings.
6004. Certain administrative proceedings.
6005. Congressional proceedings.

§ 6001. Definitions

As used in this part—

(1) “agency of the United States” means any executive department as defined in section 101 of title 5, United States Code, a military department as defined in section 102 of title 5, United States Code, the Atomic Energy Commission, the China Trade Act registrar appointed under 53 Stat. 1432 (15 U.S.C. sec. 143), the Civil Aeronautics Board, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Maritime Commission, the Federal Power Commission, the Federal Trade Commission, the Interstate Commerce Commission, the National Labor Relations Board, the National Transportation Safety Board, the Railroad Retirement Board, an arbitration board established under 48 Stat. 1193 (45 U.S.C. sec. 157), the Securities and Exchange Commission, the Subversive Activities Control Board, or a board established under 49 Stat. 31 (15 U.S.C. sec. 715d);

(2) “other information” includes any book, paper, document, record, recording, or other material;

(3) “proceeding before an agency of the United States” means any proceeding before such an agency with respect to which it is authorized to issue subpoenas and to take testimony or receive other information from witnesses under oath; and

(4) “court of the United States” means any of the following courts: the Supreme Court of the United States, a United States court of appeals, a United States district court established under chapter 5, title 28, United States Code, the District of Columbia Court of Appeals, the Superior Court of the District of Columbia, the District Court of Guam, the District Court of the Virgin
§ 6002. Immunity generally

Whenever a witness refuses, on the basis of his privilege against self-incrimination, to testify or provide other information in a proceeding before or ancillary to—

(1) a court or grand jury of the United States,
(2) an agency of the United States, or
(3) either House of Congress, a joint committee of the two Houses, or a committee or a subcommittee of either House,

and the person presiding over the proceeding communicates to the witness an order issued under this part, the witness may not refuse to comply with the order on the basis of his privilege against self-incrimination; but no testimony or other information compelled under the order (or any information directly or indirectly derived from such testimony or other information) may be used against the witness in any criminal case, except a prosecution for perjury, giving a false statement, or otherwise failing to comply with the order.

§ 6004. Certain administrative proceedings

(a) In the case of any individual who has been or who may be called to testify or provide other information at any proceeding before an agency of the United States, the agency may, with the approval of the Attorney General, issue, in accordance with subsection (b) of this section, an order requiring the individual to give testimony or provide other information which he refuses to give or provide on the basis of his privilege against self-incrimination, such order to become effective as provided in section 6002 of this part.

(b) An agency of the United States may issue an order under subsection (a) of this section only if in its judgment—

(1) the testimony or other information from such individual may be necessary to the public interest; and
(2) such individual has refused or is likely to refuse to testify or provide other information on the basis of his privilege against self-incrimination.


No person shall be excused from attending and testifying or from producing documentary evidence before the commission or in obedience to the subpoena
of the commission on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to criminate him or subject him to a penalty or forfeiture. But no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify, or produce evidence, documentary or otherwise, before the commission in obedience to a subpoena issued by it: Provided, That no natural person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

* * * * *

SEC. 260. The provisions of part V of title 18, United States Code, added by title II of this Act, and the amendments and repeals made by title II of this Act, shall take effect on the sixtieth day following the date of the enactment of this Act. No amendment to or repeal of any provision of law under title II of this Act shall affect any immunity to which any individual is entitled under such provision by reason of any testimony or other information given before such day.