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### TITLE 3—THE PRESIDENT PROCLAMATION 3225

AMENDMENT OF PROCLAMATION NO. 3160,<sup>1</sup>  
RELATING TO CERTAIN WOOLEN TEXTILES  
BY THE PRESIDENT OF THE UNITED STATES  
OF AMERICA  
A PROCLAMATION

1. WHEREAS, by Proclamation No. 3160 of September 28, 1956 (3 CFR, 1956 Supp., p. 44), the President announced the invocation by the Government of the United States of America of the reservation contained in the note to item 1108 in Part I of Schedule XX annexed to the General Agreement on Tariffs and Trade (61 Stat. (pt. 5) A 11, A 1274), and proclaimed that the ad-valorem part of the rate applicable to fabrics described in item 1108 or item 1109 (a) in Part I of Schedule XX to the General Agreement on Tariffs and Trade (61 Stat. (pt. 5) A 1274), or in item 1109 (a) in Part I of Schedule XX to the Torquay Protocol to the General Agreement on Tariffs and Trade (3 UST (pt. 1) 615, 1186), entered, or withdrawn from warehouse, for consumption in excess of certain quantities would be 45 per centum; and

2. WHEREAS I find that, effective January 1, 1958, it will be appropriate to carry out the said General Agreement on Tariffs and Trade that the ad-valorem part of the rate be 30 per centum ad valorem in the case of any of the fabrics described in the said item 1108 or 1109 (a) in Part I of Schedule XX to the said General Agreement on Tariffs and Trade which are described in paragraph (a) of the seventh recital of the said proclamation of September 28, 1956, as amended by paragraph 2 of this proclamation:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, acting under and by virtue of the authority vested in me by the Constitution and the Statutes, including section 350 of the Tariff Act of 1930, as amended (ch. 474, 49 Stat. 943; ch. 269, 59 Stat. 410; ch. 169, 69 Stat. 162; 19 U. S. C. 1351) do proclaim that the said proclamation of September 28, 1956, is hereby amended as follows:

2. The seventh recital is amended to read as follows:

"7. WHEREAS I find that following December 31, 1957, until otherwise proclaimed by the President, it will be appropriate to carry out the trade agreements specified in the first and third recitals of this proclamation that

"(a) the ad-valorem part of the rate be 30 per centum ad valorem in the case of any of the fabrics described in the said item 1108 or item 1109 (a) in Part I of Schedule XX to the General Agreement on Tariffs and Trade set forth in the second recital of this proclamation which are

(i) hand-woven fabrics with a loom width of less than 30 inches, or

"(ii) serges, weighing not over 6 ounces per square yard, and nuns' veilings and other woven fabrics, weighing not over 4 ounces per square yard; all of the foregoing described in this clause (ii) wholly or in chief value of wool of the sheep, valued at over \$4 per pound, in solid colors, imported to be used in the manufacture of apparel for members of religious orders, and

"(b) that the ad-valorem part of the rate be 45 per centum ad valorem in the case of any other of the fabrics described in the said item 1108 or item 1109 (a), or in the case of any of the fabrics described in the said item 1109 (a) in Part I of Schedule XX to the Torquay Protocol set forth in the fourth recital of this proclamation,

excepting in each case articles dutiable at rates applicable to such fabrics by virtue of any provision of the Tariff Act of 1930, as amended, other than paragraph 1108 or 1109 (a), if any of the foregoing fabrics described in this recital are entered, or withdrawn from warehouse, for consumption in any calendar year after that total aggregate quantity by weight of such fabrics which shall have been notified by the President to the Secretary of the Treasury, and published in the FEDERAL REGISTER, has been so entered or withdrawn during such calendar year; which quantity the President shall have found to be not less than 5 per centum of the average annual production in the United States during the three immediately preceding calendar

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<sup>1</sup> 21 F. R. 7593; 3 CFR, 1956 Supp., p. 44.

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**DEPARTMENT OF THE INTERIOR**

**Bureau of Indian Affairs**

**[ 25 CFR Part 121 ]**

**FIVE CIVILIZED TRIBES**

**REMOVAL OF RESTRICTIONS**

Notice is hereby given of intention to amend Part 121 as indicated below. The purpose of this amendment is to govern the issuance of orders removing restrictions to adult Indians of the Five Civilized Tribes pursuant to the provisions of section 2 (b) of the act of August 11, 1955 (69 Stat. 666) and to redesignate the present § 121.52 as § 121.61.

Interested person are hereby given opportunity to submit their views, data or arguments in writing on the proposed amendment of the regulations to the Commissioner, Bureau of Indian Affairs, Washington 25, D. C. within thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER.

**HATFIELD CHILSON,**

*Under Secretary of the Interior.*

**MARCH 5, 1958.**

1. A new center head and seven new sections, designated §§ 121.51 to 121.57, thereunder, to read as set forth below are added after § 121.49 *Procedure for removing restrictions.*

2. The present § 121.52 is redesignated § 121.61 under the present center head *Mortgages and Deeds of Trust to Secure Loans to Indians* and reads as indicated below.

**REMOVAL OF RESTRICTIONS, FIVE CIVILIZED TRIBES**

Sec.	
121.51	Removal of restrictions.
121.52	Effect of order.
121.53	Factors to be considered.
121.54	Notice of intent to issue order.
121.55	Issuance of order.
121.56	Appeals from decision to issue order.
121.57	Judicial review.

**AUTHORITY:** §§ 121.51 to 121.57 issued under the act of Aug. 11, 1955 (69 Stat. 666).

§ 121.51 *Removal of restrictions.* Upon a determination by the Secretary of the Interior that an adult Indian of the Five Civilized Tribes owning trust or restricted property possesses sufficient ability, knowledge, experience, and judgment to enable him to manage his business affairs, including the administration, use, investment, and disposition of any property turned over to such person and the income or proceeds therefrom, with such reasonable degree of prudence and wisdom as will be apt to prevent him from losing such property or the benefits thereof, the Secretary or his authorized representative shall issue, without application therefor by the Indian affected, an order removing restrictions.

§ 121.52 *Effect of order.* When an order becomes effective, the Secretary shall cause to be turned over to the Indian full ownership and control of any money and property that is held in trust for him or that is held subject to a restriction against alienation imposed by the United States, issuing, in the case of land, such title document as may be appropriate; provided, that the Secre-

tary may make such provisions as he deems necessary to insure payment of money loaned to any such Indian by the Federal Government or by an Indian tribe, and provided further, that the interest of any lessee or permittee in any lease, contract, or permit that is outstanding when an order removing restrictions become effective shall be preserved as provided in section 2 (d) of the act of August 11, 1955. The effect of such order shall also be to terminate the Indian's eligibility for all special services performed for him by the United States because of his status as an Indian, and if he inherits or there is devised to him interests in trust or restricted property, subsequent to the effective date of the order, the property will be acquired without restrictions. Any existing exemption from taxation that constitutes a vested property right shall continue in force and effect until it terminates by virtue of its own limitations.

§ 121.53 *Factors to be considered.* Prior to the issuance of an order removing restrictions, all or part of the following factors, as appropriate, shall be considered in arriving at a decision, and any other factors that may be pertinent:

(a) The extent of the Indian's education and the nature of his training and experience, including business experience, and the manner in which he has demonstrated his ability to manage his own affairs without assistance or supervision.

(b) The extent to which he has made an adequate living for himself and family; the extent to which he has required assistance from the Government, tribe, or other agency or organization in the matter of loans, relief, old-age assistance, aid to dependent children, unemployment compensation, old-age and survivors insurance, etc.; and the extent, if any, his family has been dependent on the income from trust or restricted property.

(c) The assets, including land and improvements, farm equipment, livestock, etc., he, or his family has; the property, real or personal, he has acquired through his own efforts.

(d) The manner in which he has used assets and funds coming into his possession, whether through earnings, inheritance or otherwise.

(e) The state of his health and physical capacities, insofar as they affect his ability to manage his own affairs.

(f) The value of his property in relation to his demonstrated degree of ability to manage his own affairs.

§ 121.54 *Notice of intent to issue order.* Prior to the issuance of an order removing restrictions the Indian will be notified in writing that:

(a) Section 2 (b) of the act of August 11, 1955 (69 Stat. 666), directs the Secretary of the Interior to issue an order removing restrictions to any Indian of the Five Civilized Tribes who, in the judgment of the Secretary, has sufficient ability, knowledge, experience, and judgment to enable him to manage his business affairs, including the administration, use, investment, and disposition of any property turned over to such per-

son and the income or proceeds therefrom, with such reasonable degree of prudence and wisdom as will be apt to prevent him from losing such property or the benefits thereof.

(b) He has been determined tentatively to be in the category defined by the statute, and an order removing restrictions will be issued 60 days after the date of the notice, unless he or someone acting in his behalf, presents persuasive reasons for not issuing the order. Such reasons should be in writing and received in the office issuing the notice before the end of the 60-day period.

§ 121.55 *Issuance of order.* (a) If no objection is filed, as permitted by § 121.54 (b), the order shall be issued at the end of the 60-day period, and the Indian and the Board of County Commissioners for the county in which the Indian resides shall be so notified. The order shall become effective six months after the date of such notice, unless set aside by order of a county court. The timely initiation of proceedings before a county court shall stay the effective date of an order until the proceedings are concluded.

(b) If an Indian, or someone acting in his behalf, submits within the 60-day period allowed for that purpose, reasons for not issuing the order, and it is determined the reasons are not persuasive, the Indian and any person acting in his behalf shall be notified in writing that the order will be issued, notwithstanding the objections, 30 days after the date of such notification. The notification shall allow a right of appeal to the Secretary of the Interior within the 30-day period.

§ 121.56 *Appeals from decision to issue order.* An appeal to the Secretary, together with supporting data, must be transmitted to the officer issuing the notice of the proposed removal of restrictions, and must be received by such officer before the expiration of the 30-day period mentioned in § 121.55 (b). Issuance of the order removing restrictions shall be withheld until the appeal is decided. If no appeal is received by the end of the 30-day period allowed for appeals, or if an appeal is dismissed, the order removing restrictions shall be issued, and the Indian and the Board of County Commissioners for the county in which the Indian resides shall be so notified. The order shall become effective six months after the date of such notice, unless set aside by order of a county court. The timely initiation of proceedings before a county court shall stay the effective date of an order until the proceedings are concluded.

§ 121.57 *Judicial review.* When an order removing restrictions is issued, copies thereof shall be delivered to the Indian, and to any person acting in his behalf, and to the Board of County Commissioners for the county in which the Indian resides, with the notification that, under the terms of the act of August 11, 1955 (69 Stat. 666), the Indian or the Board of County Commissioners has the right, within six months from the date of the notice of the order, to apply to the county court for the county

in which the Indian resides for an order setting aside the order removing restrictions. The timely initiation of such proceedings shall stay the effective date of the order until the proceedings are concluded.

**MORTGAGES AND DEEDS OF TRUST TO SECURE  
LOANS TO INDIANS**

§ 121.61 *Approval of mortgages and deeds of trust.* The Commissioner of Indian Affairs or his authorized representative may approve mortgages or deeds of trust on any individually owned trust or restricted land whenever such lands under any law or treaty may be sold with the approval of the Secretary of the Interior or his duly authorized representative. The approval of such a mortgage or deed of trust terminates the trust or restricted status of the land only with respect to such mortgage or deed of trust and only for the purpose of permitting foreclosure or sale pursuant to the terms of the mortgage or deed of trust in accordance with the laws of the State or Territory in which the land is situated.

[F. R. Doc. 58-1812; Filed, Mar. 11, 1958;  
8:45 a. m.]

**DEPARTMENT OF AGRICULTURE**

**Agricultural Marketing Service**

**[ 7 CFR Part 928 I**

[Docket No. AO-227-A8]

**HANDLING OF MILK IN THE NEOSHO VALLEY  
MARKETING AREA**

**NOTICE OF RECOMMENDED DECISION AND  
OPPORTUNITY TO FILE WRITTEN EXCEP-  
TIONS WITH RESPECT TO PROPOSED  
AMENDMENTS TO TENTATIVE MARKETING  
AGREEMENT AND ORDER**

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Neosho Valley marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D. C., not later than the close of business the 15th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate.

*Preliminary statement.* The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order, were formulated, was conducted at Pittsburg, Kansas, on November 13, 1957, pursuant to notice thereof which was issued November 6, 1957 (22 F. R. 9004).

The material issues on the record of the hearing relate to:

1. Defining a cooperative association as a handler with respect to the bulk tank milk of producer members;
2. Revising the base rating provisions;
3. Limiting the period during which producer milk may be diverted to non-pool plants;
4. Modifying the allocation of milk received at a pool plant from plants regulated under other Federal orders; and
5. Reducing the Class I price, and reviewing the provisions relating to payments on milk which is distributed in the marketing area from plants subject to other Federal orders.

Proposals to reduce the marketing area and to reduce the maximum rate of marketing service deductions were included in the notice of hearing, but no evidence was introduced with respect to either proposal so no further consideration will be given them.

*Findings and conclusions.* The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Bulk tank milk.* One proposal considered at the hearing was designed to accommodate efficiencies resulting from the system of collecting milk from farms in bulk tank trucks.

A bargaining cooperative association operates insulated tank trucks in which the milk of producers who have bulk cooling tanks on the farm is picked up and transported to the distributing plants of handlers. Since late 1955 there has been a steady expansion in the number of bulk cooling tanks being installed on the farms. It is extremely likely that the trend in this direction will continue. (Members of an operating cooperative may also use bulk tanks. However, such a cooperative is already a handler on member milk delivered to its pool plant, regardless of whether it is in cans or in bulk.)

The transportation of milk from farm to market in insulated tank trucks owned or operated by or under contract to a cooperative association has created a problem with respect to the determination of the responsibility to the individual producers. When milk comes to the market in cans, the milk of the individual producers is dumped, weighed, and a sample taken for butterfat testing by an employee of the plant where the milk is utilized. The operator of the plant is fixed with the responsibility for paying the individual producer for the pounds of milk received at the determined butterfat test.

When milk moves to market in a tank truck, the weight of the milk is checked and a sample for butterfat testing is taken at the farm. The milk of several producers is intermingled in the tank truck. When the tank trucks are owned, operated, or controlled by the cooperative association, the weight of each producer's milk is checked by, and a sample of the milk for butterfat testing is taken by, a person who is an employee of or directly responsible to the cooperative association. The handler who receives the milk of several producers intermingled in the tank has no way of knowing the weight or the

butterfat test of the milk of the individual producers whose deliveries made up the load, except as such information may be reported to him by the association. In some instances, particularly in the case of supplemental loads, the handler may not even know the identity of the producers whose milk he receives.

Under these circumstances, it is preferable to make the cooperative association responsible for the payment to a producer for a given quantity of milk at a particular test since the handler has no direct means of verifying such weights and test. Then, any cooperative association which qualifies as such under the order should be made the handler for such milk and should be required to account to the pool for it. The cooperative association should also be required to charge at least the class prices to the plant operator for such milk. The cooperative association in turn would be required to make the monthly reports with respect to such milk and to settle with the producer-settlement fund for it.

With respect to milk received from producers' farms in cans or in tank trucks owned, operated, or controlled by the distributing plant, the operator of such plant would continue to be the handler for such milk and would be required to account to the market administrator for it. For such milk the handler would make payment to the producer or the cooperative association at the applicable uniform prices.

2. *Base-rating revision.* Effective July 1, 1958, the base-setting period should be July through October rather than September through December. The base-operating months should be correspondingly changed to January through June, rather than March through August. Bases should be computed from appropriate delivery records for any producers serving plants which first qualify as pool plants during any of the base-operating months.

The base rating provisions of the order are designed to level the natural seasonality of milk production. Both the monthly data on production per farm and on the percentage of producer milk classified in Class I reflect substantial change in seasonality since the inception of the order.

In the fall of 1952, October was the month when the daily average production per producer was lowest. November, August, and September were the second, third, and fourth lowest. In 1953, September was the low month and in every succeeding year it has been August, the month which immediately precedes the base-setting period of September through December. By 1956 daily average production per producer during the four base-setting months was almost as high (average 435 pounds) as during the four normally flush months of March through June (average 439 pounds). In both July and August production was much lower than during the base-setting months.

Following a hearing held on May 15, 1956, and reopened on February 25, 1957, the order was amended to advance the base-setting period by one month, to August through November, and the base-operating period to February through