(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.77–31285 Filed 10–27–77;8:45 am]

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[ 3410–30 ]

## Title 7—Agriculture

## CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

## PART 226—CHILD CARE FOOD PROGRAM

### Initial Apportionment of Fiscal Year 1978 Child Care Nonfood Assistance Funds Pursuant to the National School Lunch Act

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This action apportions Child Care Nonfood Assistance Funds among States in compliance with section 17 of the National School Lunch Act, as added by Pub. L. 94–105.

EFFECTIVE DATE: October 19, 1977.

FOR FURTHER INFORMATION:

William G. Boling, Child Nutrition Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–8130.

The following appendix is added to 7 CFR Part 226:

APPENDIX—INITIAL APPORTIONMENT OF FISCAL YEAR 1978 CHILD CARE NONFOOD ASSISTANCE FUNDS PURSUANT TO THE NATIONAL SCHOOL LUNCH ACT

Pursuant to Section 17 of the National School Lunch Act, as added by Pub. L. 94–105, Child Care nonfood assistance funds available for the fiscal year ending September 30, 1978, are apportioned among the States as follows:

| State: | Total apportionment |
|---|---|
| Connecticut | $24,481 |
| Maine | 19,085 |
| Massachusetts | 58,964 |
| New Hampshire | 9,081 |
| Rhode Island | 12,898 |
| Vermont | 7,108 |
| Subtotal | 131,617 |
| Delaware | 7,021 |
| District of Columbia | 12,961 |
| Maryland | 39,425 |
| New Jersey | 61,860 |
| New York | 213,883 |
| Pennsylvania | 128,573 |
| Puerto Rico | 109,046 |
| Virginia | 74,528 |
| Virgin Islands | 2,062 |
| West Virginia | 36,184 |
| Subtotal | 685,543 |
| Alabama | 72,006 |
| Florida | 102,610 |
| Georgia | 98,290 |
| Kentucky | 56,150 |
| Mississippi | 65,507 |
| North Carolina | 100,990 |
| South Carolina | 68,047 |
| Tennessee | 66,287 |
| Subtotal | 629,887 |
| Illinois | 117,352 |
| Indiana | 51,651 |
| Michigan | 86,361 |
| Minnesota | 29,063 |
| Ohio | 112,807 |
| Wisconsin | 45,040 |
| Subtotal | 442,274 |
| Arkansas | 50,999 |
| Louisiana | 100,774 |
| New Mexico | 39,771 |
| Oklahoma | 40,799 |
| Texas | 215,420 |
| Subtotal | 447,763 |
| Colorado | 36,869 |
| Iowa | 22,261 |
| Kansas | 20,561 |
| Missouri | 49,315 |
| Montana | 14,338 |
| Nebraska | 15,305 |
| North Dakota | 8,348 |
| South Dakota | 9,740 |
| Utah | 16,728 |
| Wyoming | 5,121 |
| Subtotal | 198,586 |
| Alaska | 5,223 |
| American Samoa | 1,982 |
| Arizona | 39,771 |
| California | 313,371 |
| Guam | 1,466 |
| Hawaii | 12,856 |
| Idaho | 12,290 |
| Nevada | 5,803 |
| Oregon | 29,730 |
| Trust Territory | 1,260 |
| Washington | 40,578 |
| Subtotal | 464,330 |
| Total | 3,000,000 |

(Sec. 16, Pub. L. 94–105, 89 Stat. 522 (42 U.S.C. 1766 (j)).)

NOTE.—The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A0107.

Date: October 19, 1977.

GENE DICKEY,
*Acting Administrator.*

[FR Doc.77–31102 Filed 10–27–77;8:45 am]

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[ 3410–02 ]

## CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 117]

## PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

### Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period October 30–November 5, 1977. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202–447–3545.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on October 25, 1977, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons continues good on sizes 75's and 95's, easier on other sizes.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

### § 910.417 Lemon Regulation 117.

*Order.* (a) The quantity of lemons grown in California and Arizona which may be handled during the period October 30, 1977, through November 5, 1977, is established at 200,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: October 27, 1977.

CHARLES R. BRADER,
*Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.77–31549 Filed 10–27–77;11:54 am]

[1505-01]

## CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Milk Order No. 2; Docket No. AO-71-A71]

## PART 1002—MILK IN THE NEW YORK-NEW JERSEY MARKETING AREA

### Order Amending Order

*Correction*

In FR Doc. 77-28934 appearing in the issue of Friday, September 30, 1977 on page 52379, the caption above the table in § 1002.51(c) on page 52380 was inadvertently omitted. The caption should be included as follows:

**§ 1002.51 Transportation differentials.**

* * * * *

(c) * * *

*[Cents per hundredweight]*

| A | B | C |
|---|---|---|
| Freight zone (miles).. | Class I-A and I-B. | Class II. |

* * * * *

[1505-01]

## CHAPTER XI—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS: MISCELLANEOUS COMMODITIES), DEPARTMENT OF AGRICULTURE

[Amdt. 6]

## PART 1207—POTATO RESEARCH AND PROMOTION PLAN

### Subpart—Rules and Regulations

### Assessments

*Correction*

In FR Doc. 77-30638 appearing at page 55879 in the issue for Thursday, October 20, 1977, in the second column, in the amendatory language for § 1207.513, in the paragraph lettered "(E)" the paragraph being added was incorrectly referred to as "paragraph (e)." It should have read "paragraph (a)".

Also, at the bottom of the same column in the authority citation, "2401" should have read "2041".

[3410-07]

## CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

### SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FmHA Instruction 444.5]

## PART 1822—RURAL HOUSING LOANS AND GRANTS

### Subpart D—Rural Rental Housing Loan Policies, Procedures and Authorizations

### RENTAL UNITS AND COMMUNITY ROOMS; SQUARE FOOTAGE GUIDELINES

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: This rule amends Farmers Home Administration (FmHA) regulations to add specific maximum square footage area guidelines for rental units and community rooms or buildings in rental housing projects. These guidelines are intended to alleviate inconsistencies in program administration.

EFFECTIVE DATE: October 28, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Paul R. Conn, Director, Multiple Family Housing, or Mr. Lynn E. Voigt, Multiple Family Housing Loan Officer, 202-447-7207.

SUPPLEMENTARY INFORMATION: This rule amends existing regulations in order to provide guidelines for use in assuring that FmHA finances rental housing units and related facilities that are modest in size and cost.

FmHA gave notice on April 19, 1977, at 42 FR 20302 that it was proposing to amend § 1822.88(a) (1) and (2) of Subpart D of Part 1822, Chapter XVIII, Title 7, Code of Federal Regulations (40 FR 4278) by adding square footage guidelines for rental units and community rooms or buildings, and providing editorial changes. The comment period closed May 19, 1977, and FmHA is now publishing the amendment as a final rule.

FmHA received 11 comments in response to the proposed regulations. All comments were carefully considered, and changes have been made to the proposed regulations, as described below, based on these comments. A discussion of the principal changes and of the more recurrent and significant comments follows:

1. Several comments suggested that the method of calculating the square footage living area be defined. Accordingly, FmHA has defined the method of calculating the square footage living area as follows: The living area of an apartment unit is the square footage area within the living unit including all interior hallways, utility rooms, closets, storage, baths, kitchens, bedrooms, dining areas, and other similar spaces. Square footage living area shall be measured from the exterior faces of exterior walls and from the center line of walls separating the individual living units or other interior spaces, and shall include the area occupied by interior partitions of the living unit.

2. It was suggested that the size guidelines for community rooms or buildings be changed to comply with the Federal Interagency Day-Care Requirements of September 23, 1968. This suggestion has not been accepted because current regulations do not permit the use of rural rental housing loan funds to finance day-care centers or facilities.

3. In response to many comments, living area size guidelines have been provided in § 1822.88(a) (1) of these regulations for living units of 4 or more bedrooms.

4. Comments suggested that no maximum square footage living area guidelines should be set, and expressed the opinion that they could discourage and penalize innovative architects and builders. Careful consideration has been given to this suggestion and FmHA has determined that the guidelines should be established in order to assure the construction and rehabilitation of economical housing that is modest in its size and cost, and not of elaborate or extravagant design or materials. Furthermore, the establishment of a range of figures as a guideline, as opposed to one maximum figure, will still afford architects and builders an opportunity to demonstrate their innovativeness. The range of figures will also provide the latitude necessary to meet the additional handicapped unit design and construction standard requirements of the Department of Housing and Urban Development (HUD) Minimum Property Standards for Multifamily Housing No. 4910.1.

5. While several comments suggested a reduction in the maximum size guidelines published for comment, numerous comments were in favor of increasing the maximum guidelines. FmHA has carefully considered these conflicting comments and has determined that a modest increase is warranted. Accordingly, the maximum square footage area guidelines shown in § 1822.88(a) (1) of these regulations have been increased.

6. One comment expressed concern over the applicability of the proposed guidelines to the rehabilitation of existing structures, and especially the treatment of historic structures under the proposed amendment. The opinion was expressed that some existing structures for which rehabilitation may be economically feasible may not be adaptable to the proposed maximum living area guidelines since the difference in character between contemporary and older construction often extends to the disposition of interior spaces. Accordingly, § 1822.88(a) (1) is changed to provide basic applicability to new rental units to be constructed with rural rental housing loan funds.

Section 1822.88(a) (1) and (2) are revised. Section 1822.88(a) (3) is being revised this date in a separate publication. Also, minor editorial changes have been provided in paragraphs (4), (5), (6), and (7) of § 1822.88(a). Because of the nonsubstantive nature of these editorial changes, publication in proposed rulemaking form for § 1822.88(a) (4), (5), (6), and (7) is unnecessary. Therefore, § 1822.88(a) (1), (2), (4), (5), (6), and (7) read as follows:

**§ 1822.88 Special conditions.**

(a) *Type and Size of Housing.* All housing must meet the following requirements:

(1) Be economical in construction and not of elaborate or extravagant design or materials. As a general rule, the square footage living area of new rental units to be constructed with RRH loan funds should not be any larger than the guidelines listed below.

| Type of units: | Maximum living area in square feet |
|---|---|
| 1-bedroom units | 570–700 |
| 2-bedroom units | 700–850 |
| 3-bedroom units | 850–1,020 |
| 4-bedroom units | 1,020–1,200 |

(i) An additional 100–120 square feet of living area may be added to the 4-bedroom unit guideline listed in paragraph (a)(1) of this section for each bedroom in excess of 4.

(ii) In townhouse units where living is on two floor levels of the rental unit, the maximum square footage of living area listed in paragraph (a)(1) of this section may be exceeded by up to 12 percent, but only to the extent necessary to accommodate interior stairways.

(iii) Room sizes must be in compliance with the HUD Minimum Property Standards (MPS) 4910.1. Minimum room sizes may be determined by the minimum areas and least dimensions listed in the MPS or on a required furnishing basis.

(2) As a general rule, consist of multi-unit type housing with two or more family units and any appropriate related facilities. When community rooms or buildings are provided as part of the related facilities, their gross square footage area should be within the guidelines set forth in the HUD Manual of Acceptable Practices (MAP) 4930.1.

* * * * *

(4) Have consideration given to safety, convenience, and comfort.

(5) Be located in residential areas as a part of a community where essential facilities and services such as schools, medical services, shopping, and generally central sewer and water systems are readily available.

(6) Based on the demand shown by a market analysis, it may include "efficiency" type or one or more bedroom units.

(7) Contain bathroom or kitchen facilities in each unit.

* * * * *

(42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major rule requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: October 20, 1977.

JAMES E. THORNTON,
*Associate Administrator,*
*Farmers Home Administration.*

[FR Doc.77-31295 Filed 10-27-77;8:45 am]

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[3410-07]

[FmHA Instruction 444.5]

## PART 1822—RURAL HOUSING LOANS AND GRANTS

### Subpart D—Rural Rental Housing Loan Policies, Procedures, and Authorizations

### Structures of More Than Two Stories

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations concerning financing rural rental housing projects of more than two-stories so that consideration can be given to financing low-rise rental structures when justified on an individual case-by-case basis. This regulation is being amended as a result of requests from the general public, and is intended to provide more latitude in providing rural residents with necessary housing.

EFFECTIVE DATE: October 28, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Paul R. Conn, Director, Multiple Family Housing Loan Division or Mr. Lynn E. Voigt, Multiple Family Housing Loan Officer, 202-447-7207.

SUPPLEMENTARY INFORMATION: This rule amends existing regulations in order that consideration can be given to financing rural rental housing structures of more than two-stories. Section 1822.88 (a)(3) of Subpart D of Part 1822, Chapter XVIII, Title 7, Code of Federal Regulations (40 FR 4278) provides that housing financed under the rural rental housing program be residential in character. As a general policy, FmHA has maintained that rental units in rural areas should not be more than two-story structures in order to meet this criteria. Two and one-half-story construction has been permitted in individual cases where the topography of the site or other conditions enabled access to all units by traveling up or down no more than two floors.

FmHA gave notice on June 28, 1977, at 42 FR 32803 that it was proposing to amend § 1822.88(a)(3) of Subpart D of Part 1822, Chapter XVIII, Title 7, Code of Federal Regulations (40 FR 4278) by providing criteria by which low-rise rental structures, especially those designed for occupancy by senior citizens, can also be justified and considered for financing on an individual case-by-case basis. The comment period closed July 28, 1977, and FmHA is now publishing the amendment as a final rule.

FmHA received 2 writted comments and several verbal comments in response to the proposed regulations. All comments were carefully considered and changes have been made to the proposed regulations, as described below, based on these comments. A discussion of the principal changes and of the more recurrent and significant comments follows:

1. Several verbal comments suggested that requiring a proposed low-rise rural rental housing structure to be compatible with other rental structures in a community is unnecessarily restrictive in those cases where the community has no other multi-unit rental structures. Accordingly, § 1822.88(a)(3)(ii) has been revised to permit low-rise rental structures in such a community provided the proposed rental structure is in character with surrounding structures and provided that rental units in a low-rise structure are acceptable in the rental market.

2. A comment was made concerning the need to assure compliance with the Architectural Barriers Act of 1968, as amended, and the standards contained in the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped, No. A117.1-R 1971," which have been approved by the American National Standards Institute, Inc., (ANSI). The Secretary of the Department of Housing and Urban Development (HUD) has incorporated the provisions of the Architectural Barriers Act of 1968 and the ANSI standards into the HUD Minimum Property Standards for Multi-family Housing No. 4910.1. Since FmHA requires rural rental housing loan applicants to comply with the HUD Minimum Property Standards, compliance with both the Architectural Barriers Act of 1968 and the ANSI standards is, therefore, also required.

3. One comment expressed opposition to the proposed change and expressed the opinion that a lack of building sites and high cost of land do not justify a change in FmHA's policy toward financing more than two-story rental structures. The opinion was expressed that buildings of more than two-stories are not rural in character, and that any cost reduction achieved by higher density housing will only be off-set by increased management and maintenance costs. It was suggested that FmHA could make fuller use of its site loan program and lower its site development standards in order to encourage the development of lower cost building sites. Careful consideration has been given to this comment and suggestion, and FmHA has determined that criteria should be established so that consideration can be given to financing low-rise rental structures in those rural communities where there may be no other alternative to providing the needed residential housing. The establishment of these criteria should in no way prohibit an eligible applicant from utilizing the alternative of obtaining a site loan in order to develop low cost building sites.

4. Section 1822.88(a)(3)(iv) has been revised to remove the requirement that rental units be leased under the HUD Section 8 Housing Assistance Payments Program if the cost of the units is higher than the cost of one- and two-story construction normally financed with RRH loans. The proposed rule publication erroneously contained this requirement.

It should be noted that other paragraphs of § 1822.88(a) are being revised this date in a separate publication.

Therefore § 1822.88(a)(3) is revised to read as follows:

§ 1822.88 Special conditions.

(a) * * *

(3) Be residential in character and location and be designed to meet the needs of eligible occupants who are capable of caring for themselves. Generally, RRH units should not be more than two-story structures. However, in some cases, especially those involving senior citizen projects, low-rise structures with

elevators can be considered on an individual case-by-case basis, with prior written authorization from the National Office, when the following conditions exist:

(i) There is a serious shortage of suitable building sites, and the number of units needed cannot be built due to lack of space on the site and other building sites are not available.

(ii) Land costs are such that one- or two-story construction would result in a unit cost and rental rates in excess of what eligible occupants can afford.

(iii) The number of stories proposed for the rural rental housing structure is compatible with other rental structures in the community. If there are no other low-rise rental structures in the community, the proposed structure must be in character with surrounding structures and the applicant's market survey report, submitted in accordance with Exhibit F-7, must identify market acceptability for the number and type of low-rise rental units proposed.

(iv) The cost of the units should compare favorably with one- and two-story construction financed with RRH loans. If the costs are higher, the loan will not be approved until the FmHA State Architect or Engineer has reviewed the plans, specifications, and cost data to assure that further cost savings cannot be achieved without sacrificing the quality and serviceability of the housing.

(v) Elevators will be provided in accordance with the HUD Minimum Property Standards (MPS) (4910.1. If elevators are included, the subsoil conditions of the site must be adequate for the installation of hydraulic elevators and sufficient service personnel must be available in the area for service and repair work.

* * * * *

(42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: October 20, 1977.

JAMES E. THORNTON,
*Associate Administrator,*
*Farmers Home Administration.*

[FR Doc.77-31296 Filed 10-27-77;8:45 am]

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[3410-37]

## PART 2858—GRADING AND INSPECTION, GENERAL SPECIFICATIONS FOR APPROVED PLANTS, AND STANDARDS FOR GRADES OF DAIRY PRODUCTS

### United States Department of Agriculture Standard for Ice Cream[1]

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: Under the Food and Agriculture Act of 1977, Congress has directed that the Secretary of Agriculture establish a standard of quality for ice cream that meets certain compositional and ingredient requirements as set forth by Congress. This final rule establishes such a standard. Ice cream meeting these requirements may bear a symbol indicating that it meets the Department of Agriculture standard for ice cream.

DATE: Effective October 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard W. Webber, Dairy Section, Standardization Branch, Poultry and Dairy Quality Division, FSQS, USDA, Washington, D.C. 20250, 202-447-7473.

SUPPLEMENTARY INFORMATION: § 206 of the Food and Agriculture Act of 1977, Pub. L. 95-113 (Sept. 29, 1977), amends § 203(c) of the Agricultural Marketing Act of 1946, 7 U.S.C. 1627, and directs the Secretary of Agriculture to establish by regulation a standard for ice cream. A preliminary economic impact statement is on file in the United States Department of Agriculture.

The Act mandates that the standard shall provide that ice cream shall contain at least 1.6 pounds of total solids to the gallon, weigh not less than 4.5 pounds to the gallon and contain not less than 20 percent total milk solids, constituted of not less than 10 percent milkfat. In no case shall the content of milk solids not fat be less than 6 percent. They shall not, by weight, be more than 25 percent of the milk solids not fat.

The standard established by the Secretary must prescribe ingredients at least equal to those contained in the standard of identity set forth in 21 CFR Part 20, § 20.1 (1976), for ice cream established by the Food and Drug Administration. Therefore, there has been provided additional requirements for the reduction of the minimum levels for milk fat and total milk solids when optional bulky ingredients, such as chocolate, nuts, or fruits, are used in ice cream.

Packages of ice cream meeting the USDA standard may be voluntarily labeled with the USDA symbol indicated in § 2858.2627 of the new standard. The authority, approval, and withdrawal of use of such a symbol shall follow the regulations contained in Part 2858, Subpart A, "Regulations Governing the Inspection and Grading Services of Manufactured or Processed Dairy Products." These regulations require that the dairy ingredients come from a USDA approved plant, that in the case of ice cream the manufacturing plant be a USDA approved plant, and that any ice cream bearing the USDA symbol be produced under continuous inspection. Since this program is under the USDA voluntary service, a fee will be charged for all services. Such fees are contained in Subpart A.

The Department requests comments as to other means of implementing this program. If there are substantial comments supported by appropriate facts and data that would warrant a change in the regulations contained in Subpart A, the Department will propose appropriate amendments.

Also, the Department requests comments as to the interest and desirability of establishing quality grade standards for ice cream. Such grade standards would allow consumers the choice to select the quality (milkfat and milk solids content, flavor, body, texture, color, and appearance) of ice cream they desire.

Comments on these two requests should be sent to the Hearing Clerk, Room 1077, South Building, Washington, D.C. 20250, not later than January 1, 1978.

It is hereby found that it is impractical, unnecessary, and contrary to public interest to give preliminary notice, engage in public rulemaking procedures, and postpone the effective date of this standard until 30 days after publication thereof in the FEDERAL REGISTER in that (1) the Food and Agriculture Act of 1977 directs the Secretary to issue the standard within 30 days of enactment of the Act, and (2) this standard is equivalent to those prescribed (1976) by the Food and Drug Administration.

Therefore, under the authority of the Agricultural Marketing Act of 1946, (60 Stat. 1087 as amended, and as further amended by the Food and Agriculture Act of 1977), a new Subpart W is added to Part 2858 to read as follows:

### Subpart W—United States Department of Agriculture Standard for Ice Cream

**§ 2858.2825 United States Standard for Ice Cream.**

(a) Ice cream shall contain at least 1.6 pounds of total solids to the gallon, weigh not less than 4.5 pounds to the gallon, and contain not less than 20 percent total milk solids, constituted of not less than 10 percent milkfat. In no case shall the content of milk solids not fat be less than 6 percent. Whey shall not, by weight, be more than 25 percent of the milk solids not fat.

(b) When one or more of the bulky optional ingredients, as approved by the Food and Drug Administration, are used, the weights of milk fat and total milk solids (exclusive of such fat and solids in any malted milk used) are not less than 10 percent and 20 percent, respectively, of the remainder obtained by subtracting the weight of such optional ingredients, from the weight of the finished ice cream; but in no case is the weight of milk fat or total milk solids less than 8 percent and 16 percent, respectively, of the weight of the finished ice cream. In calculating the reduction of milk fat and total milk solids from the use of bulky optional ingredients, chocolate and cocoa solids used shall be considered the bulky ingredients. In order to make allowance for additional sweetening ingredients needed when bulky ingredients are used, the weight of chocolate or cocoa solids may be multiplied by 2.5; the weight of fruit or nuts used may be multiplied by 1.4; and the weight of partially or wholly dried fruits or fruit juices may be multiplied by appropriate factors to obtain the

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[1] Compliance with these standards does not excuse failure to comply with the provisions of the Federal Food, Drug and Cosmetic Act.

original weights before drying and this weight multiplied by 1.4. The finished ice cream contains not less than 1.6 pounds to the gallon; except that when the optional ingredient microcrystalline cellulose is used, the finished ice cream contains not less than 1.6 pounds of total solids to the gallon and weighs not less than 4.5 pounds to the gallon exclusive, in both cases, of the weight of the microcrystalline cellulose.

(c) Optional characterizing ingredients, optional sweetening ingredients, stabilizers, and emulsifiers as approved by the Food and Drug Administration may be used.

**§ 2858.2826 General identification.**

Consumer packaged product shall comply with the applicable labeling regulations of the Food and Drug Administration.

**§ 2858.2627 Official identification.**

(a) The official symbol to be used to identify product meeting the USDA standard for ice cream shall be as follows:

MEETS USDA

INGREDIENT STANDARD

FOR ICE CREAM

(b) Ice cream manufacturing plants using this symbol shall be USDA approved as set forth in Subpart B of this regulation, and the ice cream bearing the symbol shall be manufactured under continuous resident or continuous nonresident USDA inspection service in accordance with Subpart A of this regulation. The dairy ingredients used in such ice cream shall come from USDA approved plants.

Done at Washington, D.C., this 19th day of October, 1977.

ROBERT ANGELOTTI,
*Administrator,*
*Food Safety and Quality Service.*

[FR Doc.77-31426 Filed 10-27-77;8:45 am]

**[ 3410-34 ]**

## Title 9—Animals and Animal Products

## CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

### SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

### PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

### Restrictions on Importation of Horses

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document provides for temporary importation of horses for purposes other than breeding from Australia, Ireland, France, and all of the United Kingdom (England, Scotland, Northern Ireland, Wales, and Isle of Man); countries affected with contagious equine metritis, previously known as equine metritis (EM-77), a breeding disease of horses.

EFFECTIVE DATE: October 21, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. D. E. Herrick, USDA, APHIS, VS, Federal Building, Room 815, Hyattsville, Md. 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION: On September 9, 1977, (42 FR 45895) a prohibition was placed on the importation of horses, except geldings, from England, Ireland, and France and on such horses that have been in said countries within the 60 days immediately preceding their exportation to the United States because of the existence of contagious equine metritis in such countries. On September 16, 1977, the prohibition was extended to include Australia and all of the United Kingdom (England, Scotland, Northern Ireland, Wales, and Isle of Man).

On September 22, 1977, an exception to the prohibition was made for weanlings and yearlings provided the age is certified to on the import health certificate. A determination has now been made that a temporary importation of horses for other than breeding purposes, may be permitted without posing an undue risk of introducing or disseminating contagious equine metritis into the United States from such countries if such horses are under temporary customs bond. Additionally, contagious equine metritis is added to the list of diseases for which certification of nonexposure is required. Such certifiication would also state that the horses have not been on any premises at any time when such premises were known to be affected with contagious equine metritis, and that the horses have not been bred by or bred to horses from premises known to be affected with contagious equine metritis and have had no contact with horses that are known to be affected with this disease. Such certification is necessary to insure that such horses are not affected with or have not been exposed to contagious equine metritis.

Accordingly, Part 92, Title 9, Code of Federal Regulations, is amended in the following respects:

1. In § 92.2, paragraph (i) is amended to read:

**§ 92.2 General prohibitions; exceptions.**

* * * * *

(i) Notwithstanding the other provisions of this part concerning the importation of horses into the United States, the importation of all horses from the following listed countries and the importation of all horses which have been in any such country within the 60 days immediately preceding their export to the United States is prohibited because of the existence of contagious equine metritis in such countries, except that, the provision of this paragraph shall not apply to geldings, weanlings, or yearlings whose age is certified to on the import health certificate prescribed in § 92.17 of this part, and horses imported for purposes other than breeding only, under temporary customs bond: Australia, Ireland, France, and the United Kingdom (England, Scotland, Northern Ireland, Wales, and Isle of Man).

2. In § 92.17, that part of the first sentence preceding the proviso would be amended to read:

**§ 92.17 Horses, certification and accompanying equipment.**

Horses offered for importation from any part of the world, except as provided in §§ 92.23 and 92.24, shall be accompanied by a certificate of a salaried veterinary officer of the national government of the country of origin showing that the animals described in the certificate have been in said country during the 60 days preceding exportation; that each animal has been inspected on the premises of origin and found free of evidence of communicable disease and, insofar as can be determined, exposure thereto during the 60 days preceding exportation; that each animal has not been vaccinated with a live or attenuated or inactivated vaccine during the 14 days preceding exportation; and insofar as can be determined, no case of African horsesickness, dourine, glanders, surra, epizootic lymphangitis, ulcerative lymphangitis, equine piroplasmosis, or Venezuelan equine encephalomyelitis has occurred on the premises of origin or on adjoining premises during the 60 days preceding exportation; and the horses have not been on any premises at any time when such premises were known to be affected with contagious equine metritis, and further, that the horses have not been bred by or bred to horses from premises known to be affected with contagious equine metritis and have not had contact with horses that are found affected with this disease: * * *

(Sec. 2, 32 Stat. 792, as amended; secs. 4 and 11, 76 Stat. 130, 132, 21 U.S.C. 111, 134c, and 134f; 37 FR 28464, 28477; 38 FR 19141.)

These amendments relieve certain restrictions presently imposed by excluding horses temporarily imported for purposes other than breeding from the prohibition against the importation of certain horses into the United States from countries in which contagious equine metritis is known to exist and should be made effective promptly to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, good cause is found for making the amendments effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 21st day of October 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

NORVAN L. MEYER,
*Acting Deputy Administrator, Veterinary Services.*

[FR Doc.77-31294 Filed 10-27-77;8:45 am]

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[3410-34]

## PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

### Commuted Traveltime Allowances

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends administrative instructions prescribing commuted traveltime. This amendment establishes commuted traveltime periods as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which an employee of Veterinary Services performs overtime or holiday duty when such travel is performed solely on account of overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Animal and Plant Health Inspection Service.

EFFECTIVE DATE: October 28, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. E. R. Mackery, USDA, APHIS, VS, Room 870, Federal Building, Hyattsville, Md. 20782, 301-436-8695.

Therefore, pursuant to the authority conferred upon the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service by § 97.1 of the regulations concerning overtime services relating to imports and exports (9 CFR 97.1), administrative instructions 9 CFR 97.2 (1977 ed.), as amended April 26, 1977 (42 FR 21269), May 27, 1977 (42 FR 27218), and July 5, 1977 (42 FR 34276), prescribing the commuted traveltime that shall be included in each period of overtime or holiday duty, are hereby amended by adding to or deleting from the respective lists therein as follows:

**§ 97.2 Administrative instructions prescribing the commuted travel time.**

* * * * *

WITHIN METROPOLITAN AREA

ONE HOUR

Delete: Anchorage, Alaska.

OUTSIDE METROPOLITAN AREA

TWO HOURS

Add: Oakfield, Wisconsin (served from Ripon, Wisconsin).

Delete: Oakfield, Wisconsin (served from Markesan, Wisconsin).

THREE HOURS

Add: Anchorage, Alaska (served from Palmer, Alaska).
Add: Chilton, Wisconsin (served from Ripon, Wisconsin).
Add: Hartford, Wisconsin (served from Ripon, Wisconsin).
Add: Watertown, Wisconsin (served from Ripon, Wisconsin).
Delete: Chilton, Wisconsin (served from Markesan, Wisconsin).
Delete: Hartford, Wisconsin (served from Markesan, Wisconsin).
Delete: Watertown, Wisconsin (served from Markesan, Wisconsin).

FOUR HOURS

Add: Sheboygan Falls Wisconsin (served from Ripon, Wisconsin).
Delete: Anchorage, Alaska (served from Palmer, Alaska).
Delete: Nikiski, Alaska (served from Palmer, Alaska).
Delete: Sheboygan Falls, Wisconsin (served from Markesan, Wisconsin).

SIX HOURS

Add: Barron, Wisconsin (served from Ripon, Wisconsin).
Delete: Seward, Alaska (served from Anchorage, Alaska).

TWELVE HOURS

Delete: Barron, Wisconsin (served from Markesan, Wisconsin). (64 Stat. 561 (7 U.S.C. 2260)).

It is to the benefit of the public that these instructions be made effective at the earliest practicable date. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and public procedure on these instructions are impracticable, unnecessary, and contrary to the public interest and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 20th day of October 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

NORVAN L. MEYER,
*Acting Deputy Administrator, Veterinary Services.*

[FR Doc.77-31092 Filed 10-27-77;8:45 am]

[6210-01]

## Title 12—Banks and Banking

## CHAPTER II—FEDERAL RESERVE SYSTEM

### SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Docket No. R-0121]

## PART 261—RULES REGARDING AVAILABILITY OF INFORMATION

## PART 262—RULES OF PROCEDURE

### Bank Holding Company and Bank Merger Orders

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rules.

SUMMARY: The Board of Governors has amended its Rules Regarding Availability of Information and Rules of Procedure to conform the rules to current practices.

EFFECTIVE DATE: October 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3257.

SUPPLEMENTARY INFORMATION: The Board of Governors will no longer publish bank holding company and bank merger orders in the FEDERAL REGISTER. Copies of these orders will be available upon request to Publication Services, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

The provisions of section 553 of Title 5, United States Code are not followed in connection with these amendments because the changes involved are procedural in nature and do not constitute substantive rules subject to the requirements of such section.

**§ 261.3 [Amended]**

1. Section 261.3(a) is amended by revising the last sentence to read as follows:

(a) * * * The Board also publishes in the FEDERAL REGISTER notice of receipt of applications pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1842), and notices of formal hearings ordered by the Board.

* * * * *

**§ 262.3 [Amended]**

2. Section 262.3(g)(4) is amended by deleting the words, "Each such Order is published in the FEDERAL REGISTER."

Board of Governors of the Federal Reserve System, October 19, 1977.

THEODORE E. ALLISON,
*Secretary of the Board.*

[FR Doc.77-31172 Filed 10-27-77;8:45 am]