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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 425

[Doc. No. 2091S]

Peanut Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Notice of extension of sales closing date.

SUMMARY: Under the authority contained in the Federal Crop Insurance Act, as amended, the Federal Crop Insurance Corporation (FCIC) herewith gives notice of the extension of the sales closing date for accepting applications for crop insurance in certain counties on peanuts, effective for the 1985 crop year. This action is necessary because of a need to clarify yield guarantees relative to maintaining uniformity in recordkeeping requirements.

The intended effect of this notice is to advise all interested parties of the extension of sales closing dates and to comply with the Peanut Crop Insurance Regulations (7 CFR Part 425) with respect to the authority of the Manager to extend sales closing dates.

EFFECTIVE DATE: March 13, 1985.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: Under the authority contained in 7 CFR 425.7, the sales closing date for accepting applications for peanut crop insurance may be extended by placing the extended date on file in the service office and by publishing a notice in the Federal Register upon determination that no adverse selectivity will result from such extension. If adverse

conditions develop during such period, FCIC will immediately discontinue acceptance of applications.

In certain counties the closing date for accepting applications for peanuts is March 31. Because of the need to clarify and make uniform the recordkeeping requirements as they relate to yield guarantees, and to allow potential insureds an opportunity to study this issue relative to their insurance needs, FCIC is extending the sales closing date for accepting peanut crop insurance applications in all counties with a March 31 cancellation date, through the close of business on April 15, 1985, effective for the 1985 crop year only.

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation herewith gives notice that the sales closing date for accepting applications for peanut crop insurance under the provisions of 7 CFR Part 425, in all counties with a cancellation date of March 31, is extended effective for the 1985 crop year only, through the close of business on April 15, 1985.

Done in Washington, D.C., on March 6, 1985.

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.

Dated: March 6, 1985.

Approved by:

Edward Hews,
Acting Manager.

[FR Doc. 85-5936 Filed 3-12-85; 8:45 am]

BILLING CODE 3410-08-M

Federal Grain Inspection Service

7 CFR Part 800

Restrictions on Representations

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: According to the requirements for the periodic review of existing regulations, the Federal Grain Inspection Service (FGIS or Service) has reviewed its regulations on restrictions on representations and is publishing a final rule on that subject. This action amends its regulation on "Restrictions on Representations" by clarifying and condensing the provision on restrictions with respect to designations, marks, and

representations and making other miscellaneous non-substantive changes for clarity, all of which facilitate use of the regulations.

EFFECTIVE DATE: April 12, 1985.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., Information Resources Management Branch, USDA, FGIS, Room 0667 South Building, 14th Street and Independence Avenue, SW., Washington, D.C. 20250, telephone (202) 382-1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512-1. The action has been classified as nonmajor, because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

Kenneth A. Gilles, Administrator, FGIS, has determined that this final rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) because most users of the inspection and weighing services and those entities that perform such services do not meet the requirements for small entities.

Final Action

The review of the regulations on Restrictions on Representations (7 CFR 800.55 through 800.57) included a determination of the continued need for and consequences of the regulations. An objective of the review was to assure that the regulations are serving their intended purpose, the language was clear, and the regulations were consistent with FGIS policy and authority. FGIS has determined that, in general, these regulations are serving their intended purpose, are consistent with FGIS policy and authority, are necessary, and should remain in effect.

However, in the November 20, 1984, Federal Register (49 FR 45751), FGIS proposed certain revisions to: (1) Revise the title of the provisions to "Descriptions" from "Restrictions on Representations"; (2) amend § 800.55, Restrictions with respect to descriptions of grain by grade by (a) revising the title to Descriptions by grade, and (b) revising the section by clarifying the

language and adding certain provisions which appear in section 6, United States Grain Standards Act, relating to prohibited descriptions; (3) amend § 800.57, Restrictions with respect to designations, marks, and representations, by (a) revising the title to Requirements of descriptions, (b) revising the section to clarify and condense the language, and (c) incorporating paragraphs (a) through (i) into two paragraphs (a) and (b); and (4) redesignate the current § 800.57 as § 800.56.

By a final rule published in the Federal Register on September 14, 1984, (49 FR 36067) FGIS removed § 800.56, Official certificates, official forms, and official marks. The definitions comprising this section were moved to § 800.0(b).

No comments were received on the November 20, 1984, proposed rule. FGIS is publishing as a final rule the text of the proposed rule without change.

List of Subjects in 7 CFR Part 800

Administrative practice and procedure, Export, Grain.

PART 800—GENERAL REGULATIONS

Accordingly, §§ 800.55 and 800.57 "Restrictions on Representations" are revised as follows:

The authority citation for Part 800 reads as follows:

Authority: Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

1. The centerheading which precedes § 800.55 is amended to read as follows:

Descriptions

2. Section 800.55 is revised to read as follows:

§ 800.55 Descriptions by Grade.

(a) *General.* In any sale, offer for sale, or consignment for sale, which involves the shipment of grain in interstate or foreign commerce, the description of grain, as being of a grade in any advertising, price quotation, other negotiation of sale, contract of sale, invoice, bill of lading, other document, or description on bags or other containers of the grain, is prohibited if such description is other than by an official grade designation, with or without additional information as to specified factors.

An official grade designation contains any of the following: The term "U.S.," the numerals 1 through 5, the term "Sample grade," or the name of a subclass or a special grade of grain specified in the Official United States Standards for Grain.

(b) *Proprietary brand names or trademarks.* A description of grain by a

proprietary brand name or a trademark that does not resemble an official grade designation will not be considered to be a description by grade; but a description by a proprietary brand name or trademark that contains singly or in combination any of the terms referenced in paragraph (a) of this section shall be considered to resemble an official grade designation.

(c) *Use of one or more factor designations.* In interstate commerce, a description of grain by the use of one or more grade factor designations which appear in the Official United States Standards for Grain or by other criteria will not be considered to be a description by grade.

(d) *False or misleading descriptions.* In any sale, offer for sale, or consignment for sale of any grain which involves the shipment of grain from the United States to any place outside thereof, knowingly using a false or misleading description of grain by official grade designation, or other description is prohibited.

3. Section 800.57 is redesignated as 800.56 and revised to read as follows:

§ 800.56 Requirements on descriptions.

Section 13 of the Act contains certain prohibitions with respect to the use of official grade designations, official marks, and other representations with respect to grain.

(a) The use of an official grade designation, with or without factor information, or of official criteria information, or of the term "official grain standards," shall not, without additional information, be considered to be a representation that the grain was officially inspected.

(b) The use of any symbol or term listed as an official mark, at § 800.0(b)(68), with respect to grain shall be considered to be a representation of official service under the Act: Provided however, that the use of the official marks "official certificate;" "officially inspected;" "official inspection;" "officially weighed;" "official weight;" and "official weighing" shall not be considered to be a representation of official service under the Act if it is clearly shown that the activity occurred under the U.S. Warehouse Act (7 U.S.C. 241 *et seq.*): Provided further, that the use of the official mark "officially tested" with respect to grain inspection and weighing equipment shall not be considered to be a representation of testing under the Act if it is clearly shown that the equipment was tested under a State statute.

Dated: February 25, 1985.

Kenneth A. Gilles,
Administrator.

[FR Doc. 85-5946 Filed 3-12-85; 8:45 am]
BILLING CODE 3410-EN-M

Agricultural Marketing Service

7 CFR Part 1150

Dairy Promotion Program; Procedure for Conducting Referenda and Amendments to the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Dairy Research and Promotion Order was fully implemented on May 1, 1984, as required under the procedures established in Title I, subtitle B, of the Dairy and Tobacco Adjustment Act of 1983. The Act also requires that the Secretary must conduct an initial referendum among producers within the 60-day period immediately preceding September 30, 1985, to determine whether the promotion order should be continued. This rule establishes procedures for conducting the initial referendum among producers and any subsequent referenda that may be conducted in connection with the promotion order. Also, three amendments to the order are included. One is a conforming change as a result of information that may need to be obtained to conduct a referendum. The other two amendments change the name of the order to be consistent with the name of the Board and clarify that the proportion of votes necessary by the Board in conducting its business be based on the number of Board members present and voting rather than on the number of Board members present.

EFFECTIVE DATE: March 13, 1985.

FOR FURTHER INFORMATION CONTACT: Richard M. McKee, Chief, Promotion and Research Staff, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 477-6909.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Invitation to submit comments on proposed rules: Issued November 28, 1984; published December 5, 1984 (49 FR 47496).

This rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum 1512-1 and has been classified as a "non-major" rule. Also, William T. Manley, Deputy Administrator, Agricultural Marketing Service, certifies that this action will not

have a significant economic impact on a substantial number of small entities because it involves only procedures to conduct referenda. The proposed procedures would involve the voluntary participation of all milk producers and cooperative associations of milk producers, but only to the extent of the act of voting.

The information collection requirements that are included in this rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) and have been assigned OMB Control Number 0581-0147.

Preliminary Statement

Title I, subtitle B, of the Dairy and Tobacco Adjustment Act of 1983 authorized the establishment of a Dairy Research and Promotion Order to implement a national program for dairy product promotion, research and nutrition education. The promotion order was fully implemented on May 1, 1984, within the timeframe and under the procedures specified in the enabling legislation. The Act also requires that the Secretary conduct a referendum among producers within the 60-day period immediately preceding September 30, 1985, to ascertain whether the promotion order should be continued. After September 30, 1985, the Act specifies that the Secretary may conduct a referendum at any time, and shall hold a referendum on request of a representative group comprising 10 percent or more of the producers subject to the order, to determine whether producers favor the termination or suspension of the order.

In view of these requirements, proposed procedures to be followed in conducting the initial, mandated referendum, as well as any subsequent referenda that may be conducted in connection with the Dairy Research and Promotion Order, were issued on November 28, 1984. The notice of proposed rules contained a conforming amendment to the order to include the information collection and recordkeeping requirements that may be necessary of cooperative associations and other persons responsible for submitting assessments to the Board to verify and avoid a duplication of votes. The notice also included two additional amendments to the Dairy Research and Promotion Order that were proposed by the National Dairy Promotion and Research Board. One amendment would change the name of the order to be consistent with the name of the Board as defined in the Act, while the other proposal would clarify that the

proportion of votes necessary by the Board in conducting its business be based on the number of Board members present and voting rather than on the number of Board members present.

The notice of the proposed referenda procedures and amendments to the order was published in the *Federal Register* on December 5, 1984 (49 FR 47496) and interested persons were invited to submit comments on the proposals by February 4, 1985.

Findings

A total of 56 comments were received in response to the invitation to submit comments on the proposed referenda procedures and amendments to the order. However, for reasons hereinafter set forth, the comments do not provide a basis for revising either the proposed amendments to the order or the proposed referenda procedures. Consequently, the proposed amendments and referenda procedures as contained in the notice of proposed rulemaking are hereby adopted as final rule, subject to one minor modification.

Only three of the comments addressed the proposed amendments to the Dairy Research and Promotion Order. One comment supported the amendments while the other two opposed the proposal that would change the voting requirement for Board actions from a majority of Board members present to a majority of those present and voting. One of these comments suggested that Board actions should require the approval of a majority of all 36 Board members while the other opposing comment suggests that the proposal raises the possibility that some producers will not be represented in actions of the Board because of abstentions from voting.

The order presently provides that a majority of Board members constitutes a quorum at a properly convened meeting and that any action of the Board shall require the concurring votes of at least a majority of those present. The proposal by the National Dairy Promotion and Research Board would change only the latter requirement to base actions on the number of Board members present and voting. Either the current or proposed procedure is acceptable under generally recognized rules governing the conduct of meetings. The proposed method, however, provides the opportunity for Board members to abstain from voting while the current procedure treats abstentions as "no" votes. Since other provisions of the order require the withdrawal from participation in deliberations, decision-making, or voting under certain circumstances, the

proposed procedure appears to be more appropriate and should be adopted.

Most of the other comments (39) expressed either support for or opposition to the continuation of the promotion program. These views are not relevant to the issues which primarily involve the procedures to be used in conducting the initial, mandated referendum (and any subsequent referenda) to determine if dairy farmers favor the continuation of the program.

With respect to the referenda procedures, 13 of the comments expressed opposition to allowing cooperative associations to vote on behalf of their members (bloc voting). These, and several other comments, suggested that each dairy farmer be mailed a ballot to cast an individual vote.

With respect to bloc voting by cooperative associations, the referenda procedures must follow the requirements specified in the enabling legislation (Title I, subtitle B, of the Dairy and Tobacco Adjustment Act of 1983). The Act specifically states that the Secretary shall consider the vote of any cooperative association as the vote of the producers who are members of or under contract with such cooperative association. The Act also specifies that any cooperative association that elects to vote on behalf of its members must inform each member of the question presented in the referendum and how the cooperative association intends to vote. Such notification shall inform the producer of the procedures to follow to cast an individual ballot. The notification must be made at least 30 days prior to the referendum and shall include an official ballot. These conditions on voting by cooperative associations are recognized and incorporated in the referenda procedures by requiring a certification to the referendum agent that all of the notification requirements have been met in order for a cooperative association to cast a valid ballot on behalf of its members. Although recognizing voting by cooperative associations, the referenda procedures also carry out the Act's requirement that all producers be given the opportunity to cast an individual ballot, if they so desire. Ballots cast by members of a cooperative association will be tabulated and the vote of the cooperative association will be adjusted to reflect individual votes.

An advanced mass mailing of ballots to all individual producers is not anticipated. Ballots will be furnished to cooperative associations that elect to bloc vote so that such cooperatives will

be able to supply an individual ballot to each of their members as required by the Act. All other producers will be able to obtain ballots from county offices of the Agricultural Stabilization and Conservation Service. Ballots will also be available from the referendum agent and other persons who request ballots and elect to mail them to producers. A wide distribution of ballots will make them easily accessible to all producers without undertaking the time-consuming and costly process of developing a list identifying the names and addresses of all producers who are eligible to vote.

One comment stated that cooperative associations should not be required to mail ballots to producers as early as 30 days in advance of the referendum. Although not specifying when ballots should be mailed, the commentor contends that ballots should be furnished to producers by cooperative associations at the time when producers can take immediate action so that ballots are not lost or forgotten. This request for a later mailing of ballots cannot be accommodated since the time for cooperative associations to notify and mail ballots to producer members is specifically stated in the Act. However, in this regard, a minor modification has been made to delete the proposed rule requirement that ballots furnished to producers by cooperative associations contain the name of the cooperative association from which the ballots were mailed. Such requirement is unnecessary.

Two comments addressed § 1150.206 of the referenda procedures with respect to the timing of and requirements for any subsequent referenda that may be conducted after September 30, 1985. The referenda procedures specify that, after the initial referendum, the Secretary may hold a referendum at any time and shall hold a referendum when requested by a representative group comprising 10 percent or more of the number of producers subject to the order. These provisions of the referenda rules are specified in the Act and, therefore, the suggestion by one of the commentors to require that 30 to 40 percent of producers must request a referendum for the Secretary to take action cannot be adopted.

The other comment stated that the rules should provide for a periodic review of whether the program should be continued. The commentor contends that producer support for the advertising program would be strengthened if producers were certain that the program would be subject to periodic producer review. A time period for the calling of

such subsequent referenda, however, was not specified by the commentor.

It does not appear to be necessary at this time to establish a fixed period of time for conducting subsequent referenda to periodically determine if producers favor the continuation of the program. The costs associated with conducting a national referendum are significant. Such costs attributable to conducting potentially unnecessary referenda as a result of required periodic reviews should be avoided. If necessary, future referenda may be conducted at any time at the direction of the Secretary and shall be conducted if so requested by a sufficient number of producers.

One commentor suggested that § 1150.205(c)(3) of the proposed rules be modified to assure that ballots cast by unrelated individuals for the same business units be counted in the same manner applicable to families. Such clarification is not necessary since the rules specify that if a producer is other than an individual, the business unit shall be the producer and that each producer has only one vote.

One additional comment suggested that it might be beneficial to reiterate in the referenda procedures that the order shall be continued only if the Secretary determines that it has been approved by not less than a majority of the producers voting in the referendum. This requirement is specified in the Act and will be widely publicized through press releases and instructions accompanying ballots that will be made available by the referendum agent. Thus, it does not appear necessary to incorporate such a fact within the rules that govern the procedures to be followed in conducting referenda.

Additional Findings

It is hereby found and determined that it is impractical and unnecessary to delay the effective date of these rules until 30 days after publication in the *Federal Register*. The rules are essentially the same as the proposed rules published on December 5, 1984, and an earlier effective date will not impose any additional burden on any person.

List of Subjects in 7 CFR Part 1150

Milk, Dairy products, Promotion, Research, Referenda procedures.

PART 1150—DAIRY PROMOTION PROGRAM

It is hereby determined that 7 CFR Part 1150—Dairy Promotion Program, be amended as follows:

Authority: Pub. L. 98-180, 97 Stat. 1128.

1. Change the title of the subpart for §§ 1150.101 through 1150.187 from "Dairy Research and Promotion Order" to "Dairy Promotion and Research Order."

2. Revise § 1150.137(a) to read as follows:

§ 1150.137 Procedure.

(a) A majority of the members shall constitute a quorum at a properly convened meeting of the Board. Any action of the Board shall require the concurring votes of at least a majority of those present and voting. The Board shall establish rules concerning timely notice of meetings.

3. Revise § 1150.187 to read as follows:

§ 1150.187 Paperwork Reduction Act assigned number.

The information collection and recordkeeping requirements contained in §§ 1150.133, 1150.152, 1150.153, 1150.171, 1150.172, 1150.202, 1150.204, 1150.205, 1150.211 and 1150.273 of these regulations (7 CFR Part 1150) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Control Number 0581-0147.

4. Add "Subpart—Procedure for Conduct of Referenda in Connection with the Dairy Promotion and Research Order" to read as follows:

Subpart—Procedure for Conduct of Referenda in Connection with the Dairy Promotion and Research Order

Sec.	General.
1150.200	General.
1150.201	Definitions.
1150.202	Associations eligible to vote.
1150.203	Conduct of referendum.
1150.204	Who may vote.
1150.205	Duties of the referendum agent.
1150.206	Date of referendum.
1150.207	Notice of referendum.
1150.208	Time for voting.
1150.209	Tabulation of ballots.
1150.210	Confidential information.
1150.211	Supplementary instructions.
1150.212	Submittals or requests.

Authority: Pub. L. 98-180, 97 Stat. 1128.

Subpart—Procedure for Conduct of Referenda in Connection with the Dairy Promotion and Research Order

§ 1150.200 General.

Referenda to determine whether eligible producers favor the continuance, termination or suspension of the Dairy Promotion and Research Order shall be conducted in accordance with this subpart.

§ 1150.201 Definitions.

As used in this subpart:

(a) "Act" means Title I, Subtitle B, of the Dairy and Tobacco Adjustment Act of 1983, Pub. L. 98-180, 97 Stat. 1128, as approved November 29, 1983, and any amendments thereto.

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

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

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

(e) "Order" means the Dairy Promotion and Research Order, as amended.

(f) "Board" means the National Dairy Promotion and Research Board established pursuant to § 1150.131 of the order.

(g) "Assessment" means the assessments that are collected and remitted to the Board pursuant to § 1150.152 of the order.

(h) "Person" means any individual, group of individuals, partnership, corporation, association, cooperative or other entity, and, for the purpose of this subpart, shall include only one member of a family that owns or operates a dairy farm business unit.

(i) "Producer" means any person engaged in the production of milk for commercial use and whose milk is subject to an assessment. In the case of a producer who is other than an individual, the business unit shall be regarded as the producer.

(j) "Cooperative association" means any cooperative marketing association of producers which is organized under the provisions of the Act of Congress of February 18, 1922, known as the "Capper-Volstead Act."

(k) "Referendum agent" means the person designated by the Secretary to conduct the referendum.

(l) "Representative period" means the period designated by the Secretary pursuant to section 115 of the Act.

§ 1150.202 Associations eligible to vote.

(a) In conducting any referendum under the Act, the Secretary shall consider the approval or disapproval by any cooperative association engaged in a bona fide manner in marketing milk or the products thereof as the approval or

disapproval of the producers who are members of or under contract with such cooperative association of producers. In order to be eligible to vote in a referendum, a cooperative association must:

(1) Certify to the referendum agent, in conjunction with casting its ballot, that the association is organized under the provisions of the "Capper-Volstead Act" and that it is engaged in a bona fide manner in marketing milk or the products thereof;

(2) Certify to the referendum agent, in conjunction with casting its ballot, the number of producers on whose behalf the cooperative association is casting a ballot, that such producers are members of or under contract with the cooperative association and that the association was engaged during the representative period in marketing the milk of each of the producers for whom the cooperative association claims the right to vote;

(3) Furnish to the referendum agent, in conjunction with casting its ballot, a copy of the resolution authorizing the casting of the ballot;

(4) Certify to the referendum agent, in conjunction with casting its ballot, that the cooperative association has complied with the requirements of paragraph (b) of this section; and

(5) Agree to make available to the referendum agent necessary records and information pertaining to the representative period to validate the eligibility of the cooperative association to vote and to verify the number and identity of the producers on whose behalf the cooperative association claims the right to vote.

(b) Not later than 30 days prior to the beginning of the referendum, each cooperative association that elects to vote on behalf of its producers shall furnish each producer with the following information:

(1) A description of the question(s) upon which the referendum is being held;

(2) A statement of how the cooperative association intends to vote on each question on behalf of producers for whom it claims the right to vote;

(3) The procedure to be followed by a producer to cast an individual ballot if the producers so chooses;

(4) The time period within which individual ballots must be cast; and

(5) An official ballot for use by the producer.

(c) Not later than 30 days prior to the beginning of the referendum, each cooperative association shall notify the referendum agent as to whether or not the association intends to vote on behalf of its producers.

§ 1150.203 Conduct of referendum.

The referendum shall be conducted by mail in the manner prescribed in this subpart. The referendum agent may utilize such personnel or agencies of the Department as are deemed necessary by the Administrator.

§ 1150.204 Who may vote.

(a) Each producer shall be entitled to only one vote in each referendum, and no person who may claim to be a producer shall be refused a ballot. Any producer casting more than one ballot with conflicting votes shall thereby invalidate all ballots cast by such producer in such referendum. Each ballot cast shall contain a certification by the person casting the ballot that such person is a producer. All information required on the ballot pertinent to the identification of the person voting must be supplied and certified to as being correct for the representative period in order for the ballot to be valid.

(b) Any cooperative association meeting the requirements specified in § 1150.202 may, if it elects to do so, vote and cast one ballot for producers who are members of or under contract with such cooperative association. Any such cooperative association casting more than one ballot with conflicting votes shall thereby invalidate all ballots cast by such voter in such referendum.

(c) Voting by proxy or agent will not be permitted. However, a producer who is other than an individual may cast its ballot by a person who is duly authorized, and such ballot shall contain a certification by such person that the person on whose behalf the ballot is cast is a producer. All information required on the ballot pertinent to the identification of the person on whose behalf the ballot is cast must be supplied and certified to as being correct for the representative period in order for the ballot to be valid.

§ 1150.205 Duties of the referendum agent.

The referendum agent, in addition to any other duties imposed by this subpart, shall:

(a) Verify the eligibility of all producers and cooperative associations to vote in the referendum by reviewing all ballots cast to assure that each ballot:

(1) Is mailed within the prescribed time;

(2) Contains all certifications required attesting to the eligibility of each producer and cooperative association to vote; and

(3) Is completed with respect to all necessary information pertinent to the identification of the person voting so that additional verification can be conducted by the referendum agent to substantiate the eligibility of each producer and cooperative association to vote.

(b) Conduct further verification, as necessary, to determine the eligibility of each producer and cooperative association to vote. Such verification may be completed by reviewing readily available sources of information, including the following:

(1) Records of the Department;
 (2) Producers' records maintained and made available by persons responsible for remitting the assessment to the Board;

(3) Producers' records maintained and made available by cooperative associations; and

(4) Any other reliable sources of information which may be available to the referendum agent.

(c) Further verify ballots to avoid a duplication of votes. The following criteria shall serve as a guide:

(1) In the case of a producer that is other than an individual, the business unit shall be regarded as a producer;

(2) No person may vote more than once although such person may operate more than one farm, hold more than one health authority approval, or appear on the records of more than one person who is responsible for remitting an assessment to the Board;

(3) In the event that more than one individual of a family claims the right to vote and casts a ballot as a producer, concurring votes of such individuals shall be treated as one vote while any conflicting vote shall thereby invalidate all ballots cast by such individuals.

(4) In the event that an individual producer, who is a member of a cooperative association that votes on behalf of its members who are producers, casts an individual ballot under the circumstances specified in § 1150.202(b), the individual ballot shall be counted and the total number of producers for whom the cooperative association is voting shall be reduced accordingly; and

(5) Whenever more than one cooperative association claims the right to vote for a producer, only the cooperative association which furnishes evidence satisfactory to the referendum agent that such association was in fact marketing the milk of the producer on the date of the referendum order may vote for such producer.

§ 1150.206 Date of referendum.

A referendum shall be held:

(a) During the 60-day period immediately preceding September 30, 1985;

(b) At the direction of the Secretary at any time after September 30, 1985; or

(c) After September 30, 1985, upon the request of a representative group comprising 10 percent or more of the number of producers subject to the order. Cooperative associations that are entitled to vote on behalf of producers under § 1150.202 may file such request for a referendum.

§ 1150.207 Notice of referendum.

The referendum agent shall provide adequate notice of the referendum by:

(a) Mailing to each known cooperative association a notice of the referendum which shall include:

(1) Instructions for completing the ballot;

(2) A statement as to the time within which the ballot must be mailed to the referendum agent;

(3) A ballot containing a description of the question(s) upon which the referendum is being held;

(4) A description of the eligibility requirements for a cooperative association to vote on behalf of producers who are members of or under contract with such cooperative association;

(5) A description of the certifications that must be made by a cooperative association to cast a valid ballot on behalf of producers; and

(6) A description of the requirements of § 1150.202(b) for a cooperative association that elects to vote on behalf of its members who are producers.

(b) Generally make material and information widely available to producers through the Department and other means. Such information shall include a notice of referendum and include:

(1) Instructions for completing the ballot;

(2) A statement as to the time within which ballots must be mailed to the referendum agent;

(3) A ballot containing a description of the question(s) upon which the referendum is being held;

(4) A description of the eligibility requirements for producers to vote; and

(5) A description of the certifications that must be made by a producer to cast a valid ballot.

(c) Given public notice of the referendum:

(1) By furnishing press releases and other information to available media of public information (including but not limited to press, radio, and television facilities) announcing the time within which ballots must be completed and

mailed to the referendum agent, eligibility requirements, required certifications to cast a valid ballot, where additional information, ballots and instructions may be obtained, and other pertinent information; and

(2) By such other means as the referendum agent may deem advisable.

§ 1150.208 Time for voting.

There shall be no voting except within the time specified by the referendum agent.

§ 1150.209 Tabulation of ballots.

(a) The referendum agent shall verify the validity of all ballots cast in accordance with the instructions and requirements specified in §§ 1150.202, 1150.204, 1150.205, and 1150.208. Ballots that are not valid shall be marked "disqualified" with a notation on the ballot as to the reason for the disqualification.

(b) The total number of ballots cast, including the disqualified ballots, shall be ascertained. The number of ballots cast approving and the number of ballots cast disapproving shall also be ascertained. The ballots marked "disqualified" shall not be considered as approving or disapproving, and the persons who cast such ballots shall not be regarded as participating in the referendum.

(c) The referendum agent shall notify the Administrator of the number of ballots cast, the count of the votes, and the number of disqualified ballots. The referendum agent shall seal the ballots, including those marked "disqualified," the tabulation of ballots and the count of the vote, and shall transmit to the Administrator a complete detailed report of all actions taken in connection with the referendum together with all ballots cast and all other information furnished to or compiled by the referendum agent.

(d) Announcement of the results of the referendum will be made only at the direction of the Secretary. The referendum agent, or others who assist in the referendum, shall not disclose the results of the referendum or the total number of ballots and votes cast.

§ 1150.210 Confidential information.

The ballots cast, the identity of any person who voted, or the manner in which any person voted and all information furnished to, compiled by, or in the possession of the referendum agent, shall be regarded as confidential.

§ 1150.211 Supplementary instructions.

The Administrator is authorized to issue instructions and to prescribe forms and ballots, not inconsistent with the

provisions of this subpart; to govern the conduct of referenda by referendum agents.

§ 1150.212 Submittals or requests.

Interested persons may secure information or make submittals or requests to the Administrator with respect to the provisions contained in this subpart.

Effective date: March 13, 1985.

Signed at Washington, D.C., on March 5, 1985.

Karen K. Darling,

Deputy Assistant Secretary, Marketing and Inspection Services.

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BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1980

Guaranteed Loan Programs

AGENCY: Farmers Home Administration, USDA.

ACTION: Interim rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its debt adjustment program (DAP) regulations for guaranteed operating (OL) and farm ownership (FO) loans to clarify the method for calculating how much of an interest rate reduction must be made in order to provide a farmer the same benefit as would be received if the lender were to write off 10 percent of the total principal and interest outstanding on loan(s) which the lender wants guaranteed; to reduce the minimum positive cash flow requirement under the DAP from 110 percent to 100 percent; and to permit lenders to use a combination write down of principal indebtedness along with an interest rate reduction which would equal the value of an upfront write down of existing indebtedness of at least 10 percent.

The intended effect of this action is to (1) explain what is meant by the present value of a reduction in the interest rate and (2) to provide additional assistance to both lenders and their farm borrowers in a time of financial difficulty. This action is needed to provide an opportunity to a lender to use both an interest rate reduction and a principal write-down at the same time when necessary to secure the loan and project a positive cash flow and to permit more farmers to qualify for assistance.

EFFECTIVE DATE: March 13, 1985. This interim rule is subject to revision following a comment period of 30 days from the date of publication.

ADDRESSES: Submit written comments, in duplicate, to the office of the Chief, Directives Management Branch, Farmers Home Administration, USDA, Room 6348, South Agriculture Building, 14th and Independence Avenue SW., Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection during regular working hours at the above address.

FOR FURTHER INFORMATION CONTACT: Chester Bailey, Senior Loan Officer, Emergency Division, Farmers Home Administration, USDA, Room 5424-S, Washington, D.C. 20250, telephone (202) 382-1632.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Secretary's Memorandum 1512-1, which implements Executive Order 12291; and it has been determined to be nonmajor because there is not substantial change from practices under existing rules, and no annual effect on the economy of \$100 million or more; or a major increase in cost or prices for consumers, individual industry agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule contains one of the four Farm Credit Initiatives announced by President Ronald Reagan on September 18, 1984, which was later modified by the President on February 8, 1985, to include an interest write-down option with a maximum 90 percent guarantee of equivalent principal write down.

Discussion of Interim Rule

FmHA is implementing this interim rule immediately, via publication. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking because of the financial stress presently being experienced by agricultural lenders and their farm borrowers. It is essential that plans for continuing the farm operations be developed during the coming months in order that work out plans can be completed regarding the availability of credit so that spring crops can be planted in 1985.

Further, pursuant to the Administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause

that notice and other public procedure with respect to this emergency final action are impracticable; and good cause is found for making this final action effective less than the 30 days after publication of this document in the Federal Register.

This regulation does not directly affect any FmHA programs or projects which are subject to intergovernmental consultation.

The catalog of Federal Domestic Assistance numbers are 10.406 Farm Operating Loans and 10.407 Farm Ownership Loans.

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, and Environmental Impact Statement is not required.

Need for Governmental Action

The FmHA programs affected by this regulation change are Farm Ownership (FO) guaranteed loans and Operating (OL) guaranteed loans. FmHA guaranteed loans are made and serviced by commercial sources such as Federal Land Banks, Production Credit Association, banks, insurance companies and savings and loan associations. FmHA may provide the lender with a guarantee not to exceed 90 percent of loss of principal and interest on a loan.

The purpose of the DAP is to provide lenders with a tool that will enable them to continue to provide credit to eligible farmers operating not larger than family-size farms during a work out period with loans which are now classified as substandard or worse, i.e., identified as problem loans by the lender or the lender's supervising agency. FmHA can provide assistance to both lenders and their customers by use of the DAP administered in conjunction with 7 CFR Part 1903, Subpart A, "Voluntary Debt Adjustment," and the guaranteed loan authorities for OL and FO loans under 7 CFR Part 1980, Subparts A and B. Lenders who wish to participate in this program must be willing to adjust their loans by permanently writing off a minimum of 10 percent of the total principal and interest outstanding on each loan which the lender wants guaranteed, by reducing the rate of interest in an amount which will provide a reduction in interest cost equal to 10