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Monday, October 17, 1988

Presidential Documents

Title 3—

The President

Proclamation 5881 of October 12, 1988

White Cane Safety Day, 1988

By the President of the United States of America

A Proclamation

More and more visually impaired Americans are attaining independence in their daily lives, and we can all reflect gratefully on the role of the white cane in making this so. Thanks to the white cane and public awareness of it, blind people can travel and conduct daily activities successfully.

The white cane has affected the lives of its users so profoundly that it has come to symbolize freedom and self-reliance for blind citizens everywhere. This simple but effective tool helps many people with visual impairments build fuller lives. Each October, White Cane Safety Day offers all Americans the opportunity to congratulate their friends, neighbors, and fellow citizens who use the white cane to such good advantage for themselves and for our communities and country.

In acknowledgment of the white cane and all it symbolizes, the Congress, by joint resolution approved October 6, 1964, has authorized the President to designate October 15 of each year as "White Cane Safety Day."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim October 15, 1988, as White Cane Safety Day. I urge all Americans to show respect for those who carry the white cane and to honor their many achievements.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of October, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and thirteenth.

Ronald Reagan

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Rules and Regulations

Federal Register

Vol. 53, No. 200

Monday, October 17, 1988

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 906

[Docket No. FV-88-131]

Oranges and Grapefruit Grown in the Lower Rio Grande Valley in Texas; Establishment of Identifying Marks and Terms and Conditions of Use in Connection With Promotion and Advertising Activities and Conforming Changes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule.

SUMMARY: This interim final rule authorizes handlers of Texas oranges and grapefruit to use two additional identifying marks, "Texas Choice" and "Texas Fancy," utilized by the Texas Valley Citrus Committee in promotional and advertising projects. Currently, the marks "Texasweet" and "Sweeter by Nature" are authorized for use in connection with such activities and will continue to be authorized. Use of identifying marks by handlers is voluntary. If these marks are used the fruit must meet certain minimum quality requirements. This action is designed to assist in the development and expansion of markets for Texas oranges and grapefruit. Conforming changes are also made in the container grade marking requirements in recognition of the establishment of these new identifying marks and conditions for use.

DATES: Effective Date: October 17, 1988. Comments which are received by November 16, 1988 will be considered prior to issuance of the final rule.

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456; telephone: (202) 475-3918.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under Marketing Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 22 handlers of Texas oranges and grapefruit subject to regulation under the Texas citrus marketing order and approximately 3,000 orange and grapefruit producers in Texas. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of these handlers and producers may be classified as small entities.

Currently, § 906.137 allows handlers to use the identifying marks "Texasweet" and "Sweeter By Nature" under certain conditions in connection with committee promotional and advertising projects undertaken to increase shipments of Texas oranges and grapefruit. Paragraph (a)(1) of § 906.137 allows handlers to affix these marks severally or jointly to containers of grapefruit or to individual grapefruit comprising a lot only if the grapefruit grades at least U.S. No. 1. Paragraph (a)(2) of that section prescribes specifications for oranges. Handlers can only affix these marks on containers of oranges or to individual oranges if the oranges grade at least U.S. Combination, with not less than 60 percent, by count, of the oranges in each container grading at least U.S No. 1 and the remainder, U.S. No. 2. Section 906.137 is established pursuant to § 906.37 of the order.

This action revises paragraph (a) of § 906.137 to establish a new identification mark (Texas Choice) for oranges and grapefruit and the mark (Texas Fancy) for grapefruit, to be used for handlers in connection with committee promotional and advertising projects. The use of these marks would be limited to high quality, attractive looking fruit. This is intended to enhance the image of Texas oranges and grapefruit, and to augment the committee's promotional and advertising efforts to expand sales of Texas citrus. This action is based on a unanimous recommendation of the Texas Valley Citrus Committee, which works with the Department in administering the marketing order.

The identifying mark "Texas Choice" being established for oranges could be affixed to containers of oranges or to individual oranges comprising a lot, if the oranges at least meet U.S. No. 2 requirements, and the oranges possess more yellow surface color than specified for U.S. No. 2 grade fruit. The yellow or orange color will have to predominate over the green color on at least 75 percent (instead of the currently prescribed two-thirds for U.S. No. 2) of the fruit surface in the aggregate which is not discolored. The use of "Texas Choice" for grapefruit would be limited to U.S. No. 2 or better fruit, but less color discoloration would be allowed than is allowed for U.S. No. 2. Under U.S. No. 2 specifications, not more than two-thirds of the surface of the grapefruit in the aggregate may be affected by discoloration. To use the identifying mark "Texas Choice", no more than 60 percent of the surface may be affected by discoloration.

"Texas Fancy" will be authorized for containers of grapefruit or individual grapefruit if the fruit meets U.S. No. 1 or better grade requirements, with less color discoloration than allowed for U.S.

No. 1. Only 40 percent of the surface will be able to be affected by discoloration instead of the current maximum of 50 percent for U.S. No. 1. The terms relating to the U.S. grades have the same meaning as those specified in the U.S. Standards for Grapefruit (Texas and States other than Florida, California, and Arizona) [7 CFR 51.620 through 51.685] and in the U.S. Standards for Oranges (Texas and States other than Florida, California, and Arizona) [7 CFR 51.680 through 51.712].

The industry is gradually recovering from the devastating freezes of the early 1980's. Total Texas orange production increased 61 percent from 38,000 tons (875,000 boxes) in 1986–87 to 61,000 tons (1,430,000 boxes) in 1987–88. Based on production trends since the 1983 freeze, it is expected that production for the 1988–89 season will show a relatively large increase over the previous season due to an increase in yields and bearing acreage. Shipments of fresh Texas oranges increased by 34 percent from 33,363 tons (785,000 boxes) in 1986–87 to 44,800 tons (1,054,000 boxes) in 1987–88. Total Texas grapefruit production increased by 97 percent from 77,000 tons (1,925,000 boxes) in 1986–87 to 152,000 tons (3,800,000 boxes) in 1987–88. The positive trend in production since the 1984–85 season is expected to continue into the 1988–89 season. Fresh shipments increased by 57 percent, from 62,000 tons in 1986–87 to 97,160 tons in 1987–88.

As supplies return to normal, strong efforts will be needed by the Texas Citrus industry to regain its markets. The use of these new identifying marks in conjunction with the committee's efforts to promote and expand markets is intended to improve the image of Texas oranges and grapefruit in the marketplace and help regain markets.

This action also makes a conforming change in paragraph (a)(3) of § 906.340 so that handlers do not have to affix container grade markings if the handlers properly utilize the identifying marks "Texas Choice" and "Texas Fancy" pursuant to § 906.137. The Committee indicated that the use of grade markings like "U.S. No. 2", together with the identifying marks "Texas Choice" or "Texas Fancy", would cause confusion in the marketplace. An obsolete proviso currently in paragraph (a)(3) also is deleted.

Therefore, the Department's view is that the impact of this action would be beneficial to producers and handlers because it would provide handlers additional marketing flexbility by allowing them to conduct their marketing operations more closely in line with the committee's promotion and advertising activities. This should result in the more successful use of the committee's promotion funds and help handlers sell more fruit.

Based on the above, the Administrator of AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, the information and recommendations submitted by the committee, and other available information, it is found that the interim final rule as hereinafter set forth will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) Handlers of these fruits are aware of this action, which is based on a unanimous recommendation of the committee made at a public meeting, and they will need no additional time to comply with the requirements; (2) this use of these identifying marks is voluntary, not mandatory; (3) the shipment of the 1988–89 season Texas orange and grapefruit crops is expected to begin in late-September and handlers should be able to utilize the additional marketing tools provided by this action by that time; and (4) the rule provides a 30-day comment period and any comments received will be considered prior to issuance of a final rule.

List of Subjects in 7 CFR Part 906

Marketing agreements and orders, Texas grapefruit, oranges.

For the reasons set forth in the preamble, 7 CFR Part 906 is amended as follows:

PART 906—ORANGES AND GRAPEFRUIT GROWN IN THE LOWER RIO GRANDE VALLEY IN TEXAS

1. The authority citation for 7 CFR Part 906 continues to read as follows:

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

2. Paragraph (a) of 906.137 is revised to read as follows:

§ 906.137 Handlers use of identifying marks utilized by the committee in promotional and advertising projects.

(a) Pursuant to § 906.37, the identifying marks "Texasweet", "Sweeter By Nature", "Texas Fancy", and "Texas Choice" shall be available to handlers only under the following terms and conditions:

(1) The identifying marks "Texasweet" and "Sweeter by Nature" may severally or jointly be affixed only to containers of grapefruit or to individual grapefruit comprising a lot which grades at least U.S. No. 1.

(2) The identifying mark "Texas Fancy" may be affixed only to containers of grapefruit or to individual grapefruit comprising a lot which grades at least U.S. No. 1 with no more than 40 percent of the surface of the grapefruit, in the aggregate, affected by discoloration.

(3) The identifying mark "Texas Choice" may be affixed only to containers of grapefruit or to individual grapefruit comprising a lot which grades at least U.S. No. 2, with no more than 60 percent of the surface of the grapefruit, in the aggregate, affected by discoloration.

(4) The identifying marks "Texasweet" and "Sweeter by Nature" may severally or jointly be affixed only to containers of oranges or to individual oranges comprising a lot which grades at least U.S. Combination, with not less than 60 percent, by count, of the oranges in each container thereof grading at least U.S. No. 1 and the remainder U.S. No. 2.

(5) The identifying mark "Texas Choice" may be affixed only to containers of oranges or to individual oranges comprising a lot which grades at least U.S. No. 2, except that in determining whether the fruit is reasonably well colored the yellow or orange color must predominate over the green color on at least 75 percent of the fruit surface in the aggregate which is not discolored.

* * * * *

3. Paragraph (a) introductory text and paragraph (a)(3) of § 906.340 are revised to read as follows:

§ 906.340 Container, pack, and container marking regulations.

(a) No handler shall handle any variety of oranges or grapefruit grown in the production area unless such fruit is in one of the following containers, and the fruit is packed and the containers are marked as specified in this section:

* * * * *

(3) *Container grade markings.* Except when the identifying marks "Texas Choice" or "Texas Fancy" are used by handlers pursuant to § 906.137, any container of U.S. No. 2 grade fruit shall be marked to indicate the grade of the fruit in letters and numbers at least three-fourths inch in height: *Provided,* That bags containing five or eight

pounds of fruit shall be so marked with letters and numbers at least one-fourth inch in height prominently displayed on the front panel of the bag.

* * * * *

Dated: October 12, 1988.

Deputy Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 88-23908 Filed 10-14-88; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1980

Streamlining the Business and Industrial Guaranteed Loan Program

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations to streamline the Business and Industry (B&I) Guaranteed Loan program. This action is taken to reduce borrower participation costs, reduce Federal costs per job created or saved, to increase the number of jobs created and to better direct the program toward displaced farmers and small communities with higher rates of unemployment. The intended effect is to improve program operations and eliminate unneccessary burdens on borrowers.

EFFECTIVE DATE: October 17, 1988.

FOR FURTHER INFORMATION CONTACT: Lawrence L. Bowles, Loan Specialist, Business and Industry Division, FmHA, USDA, Washington, DC. 20250; telephone (202) 475-3811.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1 which implements Executive Order 12291, and has been determined "nonmajor." This action will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of enterprises based in the United States to compete with foreign based enterprises in domestic or export markets.

Environmental Impact Statement

This document has been reviewed according to 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that the proposed 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, an Environmental Impact Statement is not required.

Intergovernment Review

This program/activity is listed in the Catalog of Federal Domestic Assistance under number 10.422 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V, 48 FR 29112, June 24, 1983).

Discussion of Final Rule

A proposed rule was published in the March 29, 1988, issue of the **Federal Register** (53 FR 10100). It proposed to streamline the FmHA Business and Industrial Guaranteed Loan (B&I) program and to direct program benefits to eligible rural areas of high unemployment, to displaced farm families, and to projects that make the most efficient use of the B&I program's financial support. This rule adopts as final that proposed rule, with certain technical changes adopted on the basis of public comment. Those changes deal with the following:

1. The definition of an area of high unemployment.
2. The incomes data to be used in measuring job cost for priority-setting.
3. The threshold amount of loan balance used to determine when a FmHA State Director may waive the requirement for an annual audited financial statement.

Comments on the proposed rule were invited from the public until April 28, 1988. Eight comments were received and have been carefully considered.

Two commenters noted that in the setting of priorities for loan-making the proposed rule inadvertently gave the higher priority to projects with the highest cost per job created or saved. The commenters are correct and in the final rule, in 7 CFR 1980.451(d)(3), the ordering of percentages for the award of priority points is reversed, correcting the error in the proposed rule.

Two commenters recommended that instead of nonmetropolitan median income FmHA use nonmetropolitan household income as a factor in determining relative costs per job in 7 CFR 1980.451(d)(3)(ii) because it is a figure that is generally more accessible. An FmHA review indicates that, in fact, the household income data are more available and, therefore, this recommendation is accepted.

Two commenters suggested that the language of the proposed rule defining an "area of high unemployment" at 7 CFR 1980.402(a) should cite the unemployment rate rather than the level of unemployment and restrict to Federal source data those data that may be used. FmHA concurs. "Level" has acquired a meaning relating to the actual number of unemployed persons, not the percentage, and Federal data down to the county level is now available. Both commenters also recommended using data that is not seasonally adjusted because the seasonally adjusted data is sometimes not available. A review by FmHA has determined that this is correct and the change recommended by the commenters is adopted.

The above changes resulting from comments received are in clear conformity with the intent of FmHA and USDA in proposing, and now promulgating this rule, and conform with the descriptions in the preamble to the proposed rule.

One comment was received opposing granting State Directors authority to waive or modify otherwise applicable requirements that appraisals of collateral be performed by independent fee appraisers. The proposed rule, at 7 CFR 1980.444, allows State Directors authority to permit appraisals by a lender's own in house appraisers under limited circumstances. While the commenter correctly points out the advantages of utilizing independent fee appraisers, it is FmHA's conclusion that limited discretion, as provided in the proposed rule, is justified in the case of the relatively smaller loans that FmHA is seeking to encourage by reducing overhead costs in the handling of applications by lenders and borrowers. It should be pointed out that FmHA has had, and retains, the right to reject appraisals it determines to be inadequate.

In the proposed rule, at 7 CFR 1980.451(i)(13), FmHA proposed to permit waivers of requirements for audited financial statements, substituting compilations or reviews, on seasoned loans in the relatively smaller category. Seasoned loans are those which have been current for two years or more, have been paid down by a third or more, and comply with loan covenants. One commenter recommended that compilations or reviews be acceptable on all loans of $750,000 or less, including new loans. FmHA recognizes that audits of financial statements can be a costly item for a smaller business. However, and especially for new businesses, FmHA sees the audited statement as desirable, not only as a tool of credit analysis, but also as a valuable management tool. For that reason, FmHA concludes that the discretion to permit compilations and reviews in lieu of audited statements should remain limited to relatively small, seasoned loans. However, in light of data presented by another commenter relative to costs and benefits of audits, FmHA has reduced to $100,000 the threshhold loan balance. State Directors will have the authority to waive the audit requirement on loans with balances below that threshhold.

One commenter stated that the reduced percentages of guarantee on loans over $2 million (7 CFR 1980.420) would preclude his bank's participation. The case presented in the comment would not be affected by the changes proposed. It appears, based on inferences, that there is some confusion between the maximum percentages of guarantee that are permitted under the rule (90 percent on loans of $2 million or less) and judgments by FmHA field personnel as to what percentage, within that limit, they will recommend to the FmHA decision-making officials. Such judgments are based on credit and loan analyses. The maximum percentage (90 percent in the cited example) is just that, a maximum. The percentage of guarantee, up to the maximum, is a matter of negotiation between the lender and FmHA.

Another commenter recommended that the maximum percentage of guarantee be 80 percent for all loans, regardless of size. The current maximum is 90 percent, and that maximum would be retained in 7 CFR 1980.420 for loans of $2 million or less. The purpose of the proposed rule is to stress relatively smaller loans. That objective, FmHA concludes, is best attained by providing a higher level of assistance for the relatively smaller projects, compared to those involving loans over $5 million, on which the maximum percentage of guarantee would be 70 percent.

One commenter recommended partial retention of the requirement for feasibility studies on loans under $2 million. FmHA has clarified the language in 7 CFR 1980.442 to emphasize that it is formal feasibility study that would be the subject of a waiver. The lender would still have to demonstrate project feasibility, and could do so with data less formally presented, and less costly to produce than the formal studies produced by consultants.

This final rule makes the following changes in the B&I Guaranteed Loan program. All section references are to Subpart E of Part 1980 of Title 7, Chapter XVIII of the Code of Federal Regulations, exept as otherwise noted.

1. Section 1980.20 of Subpart A of Part 1980 is amended to show that the maximum percentage of guarantee, as opposed to the maximum loss payable by FmHA on a B&I Guaranteed Loan, is governed by § 1980.420 of Subpart E of Part 1980.

2. Section 1980.402 is amended to define an area of high unemployment for priority-setting in loan making.

3. A uniform cap of $10 million is established in § 1980.413 for the amount of a new loan that may be guaranteed.

4. A new § 1980.420 is added, establishing limits on the percentage of a loan that may be guaranteed. Those maximum percentages are 90 percent for loans not over $2 million, 80 percent for loans over $2 million but not over $5 million, and 70 percent for loans over $5 million.

5. Guarantees of loans with variable interest rates tied to a base rate published periodically in a recognized national or regional financial publication will be allowed in cases in which the loan agreement provides for interest rate floors and ceilings. Previously § 1980.423 did not provide for guarantees when the loan agreement provided such floors and ceilings.

6. Section 1980.442 is revised to allow State Directors discretion in requiring formal feasibility studies on loans of $2 million or less.

7. Section 1980.444 is revised to allow State Directors limited discretion to permit lenders' "in house" appraisals on loans of $2 million or less.

8. A new priority system is established for the guaranteeing of new loans at § 1980.451(d)(3). The priority system emphasizes assistance to displaced farmers and small communities with high unemployment, projects which create and/or save jobs at the lowest cost per job, and projects where FmHA assistance is best leveraged.

9. Section 1980.451(f) is revised so that credit reports can be used to varify data submitted on Statements of Personal History, expediting the required clearance process.

10. State Directors are given discretion in § 1980.451(i) and § 1980.469 Administrative C to accept compilation financial statements or reviews in lieu of audited financial statements on seasoned loans with unpaid balances of $100,000 or less.

List of Subjects in 7 CFR Part 1980

Loan Programs—Business and industry—Rural development assistance, Rural areas.

For the reasons set forth in the preamble, USDA amends Part 1980, Chapter XVIII, Title 7, Code of Federal Regulations, as follows:

PART 1980—GENERAL

1. The authority citation for Part 1980 continues to read as follows:

Authority: 7 CFR Part 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—General

2. Section 1980.20 is amended by revising the introductory text to read as follows:

§ 1980.20 Loan guarantee limits.

The maximum loss covered by the Loan Note Guarantee, Form FmHA 449-34, or Form FmHA 1980-27, "Contract of Guarantee (Line of Credit)," can never exceed the lesser of: the percentage of guarantee of principal and interest indebtedness as evidenced by said note(s) or by assumption agreement(s), any loan subsidy due, and the percentage of guarantee of principal and interest indebtedness on secured protective advances for protection and preservation of collateral made with FmHA's authorization; or the percentage of guarantee of the principal advanced to or assumed by the borrower under said note(s) or assumption agreement(s) and any interest due (including any loan subsidy) thereon. Lenders and applicants will propose the percentage of guarantee. Lenders and applicants will be informed in writing on Form FmHA 449-14 by FmHA of any percentage of guarantee less than proposed by the lender and applicant, and the reasons therefore. (See § 1980.80 of this subpart regarding appeals.) The maximum percentage of guarantee (as opposed to the maximum loss covered by the guarantee) on a Business and Industrial loan is defined in § 1980.420 of Subpart E of this part. FmHA will determine the percentage of guarantee after considering all credit factors involved, including but not limited to:

* * * * *

Subpart E—Business and Industrial Loan Program

3. Section 1980.402 is amended by removing all first level paragraph designations and by adding after the introductory text a new paragraph to read as follows:

§ 1980.402 Definitions.

* * * * *

Area of high unemployment. An area in which a B&I Loan Guarantee can be issued, consisting of a county or group of contiguous counties or equivalent subdivisions of a State which, on the basis of the most recent 12-month average or the most recent annual average data, has a rate of unemployment 150 percent or more of the national rate. Data used must be those published by the Bureau of Labor Statistics, U.S. Department of Labor.

* * * * *

4. Section 1980.413 is amended by removing paragraph (a)(4) and by amending paragraph (b) by removing the words "as set forth in" and replacing them with the word "under."

5. Section 1980.420 is added to read as follows:

§ 1980.420 Loan guarantee limits.

The percentage of guarantee, up to the maximum allowed by this section, is a matter of negotiation between the lender and FmHA.

(a) For loans of $2 million or less, the maximum percentage of guarantee is 90 percent.

(b) For loans over $2 million but not over $5 million, the maximum percentage of guarantee is 80 percent.

(c) For loans in excess of $5 million, the maximum percentage of guarantee is 70 percent.

(d) Lenders and borrowers will propose the percentage of guarantee. FmHA informs lenders and borrowers in writing on Form FmHA 449–14 of any percentage of guarantee less than proposed by the lender and borrower, and the reasons therefore. FmHA determines the percentage of guarantee after considering all credit factors involved, including but not limited to:

(1) *Borrower's management.* The borrower's management, and when appropriate, equity capital, history of operation, marketing plan, raw material requirements, and availability of necessary supporting utilities and services;

(2) *Collateral.* Collateral for the loan;

(3) *Financial condition.* Financial condition of borrower or borrower's principals, if appropriate;

(4) *Lender's exposure.* The lender's exposure before and after the loan, and any applicable limits on the lender's lending authority; and

(5) *Trends and conditions.* Current trends and economic conditions.

6. Section 1980.423 is amended by revising paragraph (a)(1) to read as follows:

§ 1980.423 Interest rates.

(a) * * *

(1) A variable interest rate must be a rate that is tied to a base rate published periodically in a recognized national or regional financial publication specifically agreed to by the lender and borrower. It must rise and fall with the selected base rate, and changes can be made no more often than quarterly. The lender must incorporate within the variable rate promissory note at loan closing, the provision for adjustment of payment installments coincident with an interest rate adjustment. This will assure that the outstanding principal balance is properly amortized within the prescribed loan maturity to eliminate the possibility of a balloon payment at the end of the loan.

* * * * *

7. The introductory text of § 1980.442 is revised to read as follows:

§ 1980.442 Feasibility studies.

Feasibility studies by recognized independent consultants are required. For loans of two million dollars or less, the State Director may waive this requirement at the request of the lender if the lender provides data that establish economic, market, technical, financial, and management feasibility to the satisfaction of FmHA. Market, financial, and management histories and analyses are of critical importance. The cost of feasibility studies shall be borne by the applicant and may be paid from funds included in the loan. The outline of the feasibility study or of data submitted in lieu thereof must be approved by FmHA. FmHA personnel may not recommend consultants, but may provide the borrower with a list of consultants who have performed satisfactorily on previous projects. An acceptable feasibility study should include, but not be limited to:

* * * * *

8. Section 1980.444 is amended by revising paragraph (a) to read as follows:

§ 1980.444 Appraisal of property serving as collateral.

(a) Appraisal reports prepared by independent qualified fee appraisers will be required on all property that will serve as collateral. In the case of loans two million dollars or less, the State Director may modify this requirement by permitting the appraisal to be made by a qualified appraiser on the lender's staff with experience appraising the type of collateral involved. The appraisers will give their opinion regarding the current market value of the collateral and the purpose for which the appraisal will be used. The lender will be responsible for assuring that appropriate appraisals are made.

* * * * *

9. Section 1980.451 is amended by revising the introductory text of paragraph (d), paragraph (d)(3) and (f)(3), and the introductory text of paragraph (i)(13), and Administrative paragraph A.6.(c) to read as follows:

§ 1980.451 Filing and processing applications.

* * * * *

(d) *Loan Priorities.* Applications and preapplications received by FmHA will be considered in the order received; however, for the purpose of assigning priorities as described in paragraph (d)(3) of this section, FmHA will compare an application to other pending applications.

* * * * *

(3) Priorities will be assigned by FmHA to eligible applications on the basis of a point system that takes into account project location, the creation and saving of jobs, the cost at which those jobs would be created or saved, seasonal and part-time job impact, and leveraging of FmHA assistance. The application and supporting information submitted with it will be used to determine an eligible proposed project's priority for available funds or guarantee authority. The priorities described in this paragraph will be used by FmHA to score projects. A copy of the calculation of the score should be placed in the case file for future reference.

(i) *Location priorities.* The priority score for location will be the score for the highest-ranked category in which the project fits. If the location does not fit one of these categories, its receives no points for location. The categories, and their point scores, are:

(A) Located in a city or area under 25,000 population (10 points).

(B) Located in a city or area under 25,000 population that is in an area of high unemployment as of the date of application (20 points).

(C) Located in an area of high unemployment as of the date of application, provided the borrower certifies in writing to the State Director in simple narrative or letter form that the project will employ on a permanent, full-time basis (providing at its own cost such training or retraining as may be needed) persons (numbering no fewer than 25 percent of the project's employment) who are members of displaced farm families which recently derived from farming or ranching the majority of their combined incomes but are no longer actively engaged in farming or ranching as operators or employees (35 points).

(ii) *Jobs priorities.* The priority score for jobs created and/or saved is the score for the highest-ranked category in which the project fits. If the project does not fit one of these categories, it receives no points for jobs. The categories, and their point scores, are:

(A) Project will contribute to the overall economic stability of the project area and generate permanent jobs beyond the entrepreneur and the entrepreneur's household (10 points).

(B) Project will contribute to the overall economic stability of the project area and will employ on a permanent, full-time basis a number of persons that is significant in the context of the area's economy (20 points).

(C) Project will contribute to the overall economic stability of the project area, will employ on a permanent, full-time basis a number of persons that is significant in the context of the area's economy, and will retain in that area a significant number of jobs that would otherwise be lost (35 points)

(iii) *Job cost priorities.* The priority score for the project's cost per job is the score for the highest-ranked category in which the project fits. First, divide the amount of the FmHA guaranteed loan by the number of jobs created or saved. This will result in the cost per job. Count only full-time jobs. Part-time jobs may be reduced to a fraction of a full-time job and counted. For example, a 20-hour- per-week job, or a job that is full-time for six months per year, is one-half of a job. Second, determine the State's nonmetropolitan household income as described in § 1980.451(d)(3)(vi). Third, divide the cost per job by the State's nonmetropolitan household income. For example, if the cost per job is $10,000 and the State's nonmetropolitan household income is $20,000, the result will be 0.5. The categories, and their point scores are:

(A) Loans on which the result is greater than 1.5 but less than 2.0 (5 points).

(B) Loans on which the result is from 1.0 to 1.5 (15 points).

(C) Loans on which the result is less than 1.0 (25 points).

If the result exceeds 2.0, a high cost per job in that State, no points are received for job cost.

(iv) *Additional Points.* There shall be added to the score the points indicated for any and all of the following criteria met by the project.

(A) FmHA guaranteed loan is less than 50 percent of project cost (5 points).

(B) Percentage of guarantee is 10 or more percentage points less than the maximum allowable for a loan of its size (5 points).

(C) Project will, in addition to any permanent full-time jobs, create a significant number of part-time or seasonal jobs that will provide additional income to underemployed residents of the project area without their having to give up any present part-time or seasonal jobs (10 points).

(v) *Administrative Points.* The State Director may assign up to 20 points to an application in addition to those points scored under § 1980.451(d)(3) (i) through (iv). These administrative points are intended to be assigned by a State Director only in cases of unforeseen exigencies, emergencies, benefits to other FmHA-assisted projects (including the limiting of financial risks affecting FmHA loans and loan guarantees) or the loss of financing if FmHA funds are not committed in a timely fashion. They may also be assigned in cases in which the project's goods or services are essential to other Federally assisted projects and activities in the area or to the successful implementation of an economic development strategy for the area that is sponsored and/or operated by an agency of the Federal or State government. An explanation for the assigning of these points by the State Director will be appended to the calculation of the project score maintained in the case file. If an application is considered in the National Office, the Administrator may also assign up to 20 points. An assignment of points by the Administrator will be by memorandum, stating the Administrator's reasons, and that memorandum will be appended to the calculation of the project score maintained in the case file. In assigning priorities to applications and in selecting projects for funding, FmHA will consider State development strategies. Funds (guarantee authority) allocated for use as prescribed in this regulation are to be considered for use by Indian tribes within the State regardless of whether State development plans include Indian reservations within the State's boundaries. It is essential that Indians residing on such reservations have equal opportunity to participate in any benefits of these programs.

(vi) *Indexation.* When current, annual data are not available to determine a State's nonmetropolitan household income for purposes of the calculations described in paragraph (d)(3)(iii) of this section, indexation of census data is necessary. The State Director will use the figure from the most recent decennial census of the United States, increased by a factor representing the increase since the year of that census in the Consumer Price Index ("CIP–U"). That factor shall be furnished annually by the National Office, FmHA.

* * * * *

(f) * * *

(3) Form FmHA 449–4, "Statement of Personal History," for a proprietor (owner), each partner, officer, director, key employee and stockholders holding 20 percent or more interest in the borrower except for those corporations listed on a major stock exchange and for those so listed if required by FmHA. Forms FmHA 449–4 are not required to be submitted for elected officials and appointed officials in connection with loan applications from public bodies. Failure to report full, complete and accurate information on the Statement of Personal History may result in FmHA's not making or guaranteeing the loan. Whenever possible, a local, regional, or national credit report, furnished by the lender, will be used to verify data on Form FmHA 449–4.

* * * * *

(i) * * *

(13) Proposed loan agreement. (See paragraph VII of Form FmHA 449–35). Loan agreements between the borrower and lender will be required. The final executed loan agreement must include FmHA's requirements as set forth in the Form FmHA 449–14, including the requirements for periodic financial statements and recordkeeping. There must be a requirement for an annual audited financial statement of the borrower; it will be performed by an independent certified public accountant or by an independent public accountant licensed and certified on or before December 31, 1970, by a regulatory authority of a State or other political subdivision of the United States. An acceptable audit will be performed in accordance with generally accepted auditing standards and include such tests of the accounting records as the auditor considers necessary in order to express an opinion on the financial condition of the borrower. FmHA does not require an unqualified audit opinion as a result of the audit. In the case of seasoned loans with unpaid balances of $100,000 or less, the State Director may modify this audit requirement by permitting the use of compilation financial statements or reviews to satisfy the audit requirement if prior audits were satisfactory. The loan agreement must also include, but is not limited to, the following:

* * * * *

A. *Administrative* * * *

* * * * *

6. * * *

(c) A local, national or regional credit report and Form FmHA 449-4 for all loans over one million dollars or for loans, regardless of size, when the State Director believes a character evaluation check is advisable.

* * * * *

10. Section 1980.469 is amended by revising paragraph "Administrative" C(1) to read as follows:

§ 1980.469 Loan servicing.

* * * * *

Administrative

* * * * *

C. * * *

1. The lender understands upon initial contact during loan application and in particular at loan closing that the lender is responsible for loan servicing and that annual audited financial statements are required, but that in the case of seasoned loans with unpaid balances of $100,000 or less, compilation financial statements or reviews may satisfy the audit requirement.

* * * * *

§ 1980.481 [Amended]

11. Section 1980.481(a) of Subpart E of Part 1980 is amended by removing the reference, § 1980.402(b), and replacing it with a reference, § 1980.402.

Appendix C—[Amended]

12. Appendix C of Subpart E of Part 1980 is amended by removing paragraph (4) and redesignating paragraphs (5) through (14) as (4) through (13).

Dated: September 7, 1988.

Roland R. Vautour,

Under Secretary for Small Community and Rural Development.

[FR Doc. 88-23789 Filed 10-14-88; 8:45 am]

BILLING CODE 3410-07-M

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 87-024]

Brucellosis; Documentation of Animal Identification on Certificates

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the brucellosis regulations to give those who complete certificates an alternative to transcribing individual animal identification or ownership brands directly onto certificates. Under this rule, those who complete certificates may staple to certificates a document already listing this information. This rule will reduce the paperwork burden for those who complete certificates while continuing to ensure adequate identification of animals moved with a certificate.

EFFECTIVE DATE: November 16, 1988.

FOR FURTHER INFORMATION CONTACT: Dr. Richard D. Hobbs, Senior Staff Veterinarian, Regulatory Communications and Compliance Staff, VS, APHIS, USDA, Room 829, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782; 301-436-8565.

SUPPLEMENTARY INFORMATION:

Background

As part of a program to prevent the interstate spread of brucellosis, the regulations in 9 CFR Part 78 (referred to below as the regulations) require a certificate for certain interstate movements of cattle and bison. Section 78.1 of the regulations requires that certificates show identification for each animal to be moved with the certificate. In most cases, individual animal identification is required; in some cases, ownership brands, which identify animals to a particular herd, are allowed.

On December 22, 1986, we published in the **Federal Register** (51 FR 45776-45777, Docket No. 86-095) a proposal to provide an alternative to writing individual identification or ownership brands directly onto certificates. We proposed that, under certain conditions, this information could be provided by attaching to a certificate another document already listing this information, such as a brucellosis test record (VS Form 4-33), or, for cattle allowed to be identified by ownership brands, an official brand inspection certificate.

The proposed rule reflected our belief that we could facilitate the interstate movement of certain cattle and bison by reducing the paperwork burden on those who prepare certificates while continuing to ensure adequate identification of the animals being moved.

We invite written comments on our proposed rule, stipulating that they had to be postmarked or received on or before February 20, 1987. We received 20 comments, 14 in support of the proposal and 6 against. The comments were from state and federal veterinary officials, an accredited veterinarian, and the American Veterinary Medical Association. All the comments were carefully considered and all objections and suggestions are discussed in this supplementary information section.

With the exception of changes discussed below and nonsubstantive, editorial changes to the proposed definition of "Certificate," we are adopting the provisions of the proposed rule for the reasons given in the proposal and in this document.

Comments

Our proposal required that documents attached to a certificate identify each animal to be moved with the certificate, but no other animals.

Two commenters asserted that we should not require documents attached to a certificate to identify only those animals to be moved with the certificate. Rather, they said, we should allow the certificate to state that X number of animals listed on the attached form were purchased by the consignee.

Animals may be moved interstate with a certificate only if they meet certain conditions. Certificates, or documents attached to them, must identify each animal to be moved with the certificate. In most cases, individual animal identification is required; under certain conditions, ownership brands, which identify animals to a particular herd, may be used as identification. This requirement provides the necessary means of verifying that the animals moved are, in fact, the same animals that were released for movement with the certificate. In addition, we depend on this same identification process to provide a record of the movement of these animals. If brucellosis is detected at any place where an animal has been, this record allows us to locate potential sources of infection and take action to prevent the spread of the disease. Therefore, we have not adopted the commenters' suggestion.

Six commenters maintained that there would be few instances where all animals listed on a document, such as a test chart, would be moved interstate with the same certificate. For this reason, one of these commenters concluded that we should not adopt the proposed rule; the other four suggested that we allow use of documents that identify animals in addition to those covered by a certificate if information pertaining to the extra animals is crossed out.

We recognize that, in many cases, documents used to provide individual animal identification would contain information pertaining to animals in addition to those to be moved interstate with a particular certificate. However, not adopting the proposed rule would disallow use of all documents, even if they identified only those animals to be moved interstate with a certificate. Since use of another document to provide animal identification is meant to be an option, not a requirement, it is not