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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

Agricultural Marketing Service

7 CFR Part 932

[Docket No. FV-89-070FR]

Olives Grown in California; Change in Procedures for Nominating Producer Members To Serve on the California Olive Committee

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule changes mail balloting procedures used to nominate producer members and alternate producer members to serve on the California Olive Committee (Committee). The change allows producers who are interested in serving on the Committee, but are unable to attend meetings at which candidates are selected for nomination, to submit their names to the Committee to be included on the mail ballot. Thus, more producers will be able to participate in the nomination process.

EFFECTIVE DATE: December 4, 1989.

FOR FURTHER INFORMATION CONTACT:

Patrick Packnett, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2530-S, Washington, DC 20090-6456, telephone (202) 475-3862.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 932 (7 CFR 932) regulating the handling of olives grown in California. The 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 (RAF), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this final rule 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 seven handlers of California olives regulated under this marketing order each season, and approximately 1,390 olive producers in California. 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. Most, but not all, of the olive producers and none of the olive handlers may be classified as small entities.

The Committee works with the Department in administering the marketing order. The Committee consists of 16 members and alternates. Eight members represent producers and eight members represent handlers.

The producer member positions are apportioned among four districts within the State of California. Four handler members represent handlers who are cooperative handler organizations, and four represent handlers who are not cooperative handler organizations.

Section 932.129 of the rules and regulations implementing the order (7 CFR 932.108-932.161) specifies that producer members and alternates may be nominated by mail ballot or at nomination meetings as the Committee may determine. When mail ballot voting is used in lieu of nominating meetings, the Committee is required to schedule a meeting in each producing district for the purpose of selecting candidates for member and alternate member nominations. The mail ballot voting

procedures set forth in paragraph (a)(1) of § 932.129 do not permit a producer who is not present at a candidate selection meeting and who is not recommended as a candidate by a producer in attendance at such a meeting to be included on a nomination ballot.

Experience has shown that there are instances where producers are unable to attend these meetings but would like to offer themselves as candidates for nomination. It is the Committee's view that all producers interested in serving on the Committee should be provided an opportunity to be considered by their fellow producers for nomination, and that circumstances preventing a producer from attending a meeting should not be cause for denying that producer a chance to be nominated to serve on the Committee.

At its June 6, 1989, meeting, the Committee unanimously recommended that provision be added to paragraph (a)(1) to allow producers who are unable to attend the candidate selection meeting in their respective districts to submit their name to the Committee office, no later than seven days after such meeting, to be placed on the ballot as a candidate for a member or an alternate member position. The change is made in § 932.129(a)(1) by redesignating paragraph (iv) as paragraph (v) and adding a new paragraph (iv) specifying that in the event a producer cannot attend a meeting but wishes to be included on the ballot, that producer may notify the Committee office in writing no later than 7 days after the date of the nomination meeting for the producer's district.

Notice of this action was published in the *Federal Register* on September 6, 1989 (54 FR 36985). The comment period ended October 6, 1989. No comments were received.

The change will not impose any additional costs on producers or handlers. Furthermore, the change is for the benefit of producers and will provide an opportunity for greater producer participation in the Committee nomination process. Therefore, the Administrator of the 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 information presented, the Committee's recommendation and other available

information, it is found that this final rule will tend to effectuate the declared policy of the Act.

Lists of Subjects in 7 CFR Part 932

California, marketing agreements and orders, olives.

For the reasons set forth in the preamble, 7 CFR part 932 is amended as follows:

Note: These sections will be published in the Code of Federal Regulations.

PART 932—OLIVES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 932 continues to read as follows:

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

2. Paragraph (a)(1)(iv) of § 932.129 is redesignated as paragraph (a)(1)(v) and a new paragraph (a)(1)(iv) is added to read as follows:

§ 932.129 Nomination procedures for producer members.

(a) * * *

(1) * * *

(iv) In the event a producer cannot attend a meeting but wishes to be included on the ballot, that producer may notify the Committee office in writing no later than 7 days after the date of the nomination meeting for the producer's district and request that the producer's name be included on the ballot.

* * *
Dated: October 30, 1989.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89-25847 Filed 11-1-89; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1230

[No. LS-104]

Pork Promotion and Research

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; correction.

SUMMARY: AMS is correcting three numbers in the table listing assessments for Pork and Pork products which appeared in the September 21, 1989, Federal Register (54 FR 38813). The ninth number in the first column of the second table is revised to read 0203.29.20008; the 16th number in the first column of the second table is revised to read 0210.12.00404; and the 17th number in the first column of the second table is revised to read 0210.19.00005.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs Branch—202/447-2650.

SUPPLEMENTARY INFORMATION: The following corrections are made in FR Doc. 89-22281, the Pork Promotion and Research final rule to decrease the amount of assessments per pound due on imported pork and pork products subject to assessment under the Pork Promotion, Research, and Consumer Information Act of 1985 (7 U.S.C. 4801-4819) published in the September 21, 1989, Federal Register (54 38813):

§ 1230.110 [Amended]

1. In § 1230.110, the following three numbers in the first column of the second table on page 38814 change as listed below:

The ninth number "0203.90.20008" changes to "0203.29.20008."

The 16th number "0201.12.00404" changes to "0210.12.00404."

The 17th number "0201.19.00005" changes to "0210.19.00005."

Done at Washington, DC, on October 27, 1989.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 89-25776 Filed 11-1-89; 8:45 am]

BILLING CODE 3410-02-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operation of Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final amendments.

SUMMARY: The National Credit Union Administration ("NCUA") Board, as part of its periodic review of its regulations, is publishing the final amendments to § 701.31—Nondiscrimination Requirements. Section 701.31 summarizes the prohibitions on discrimination in real estate lending. Section 701.31 was not in need of major revision. The Board's final amendments simplify and clarify the regulation by making several technical changes as proposed. Changes to the Federal Fair Housing Act and the Department of Housing and Urban Development's regulations required minor amendments to § 701.31 and to NCUA's Equal Housing Lender poster.

EFFECTIVE DATE: December 4, 1989.

FOR FURTHER INFORMATION CONTACT: Roy DeLoach, NCUA, Office of General Counsel, 1776 G Street, NW.,

Washington, DC 20456, telephone: (202) 682-9630.

SUPPLEMENTARY INFORMATION:

On May 22, 1989, the NCUA Board published proposed amendments to § 701.31 of the NCUA's Rules and Regulations—Nondiscrimination Requirements. (See 54 FR 21963.) Only minor changes to the regulation were proposed. The NCUA last amended § 701.31 on August 31, 1979 (See 44 FR 51191). Section 701.31 is designed to summarize in one place the prohibitions on discrimination in real estate lending activities contained in: (1) The Federal Fair Housing Act (42 U.S.C. 3601 et seq.) and Department of Housing and Urban Development regulations issued thereunder; and (2) the Equal Credit Opportunity Act (15 U.S.C. 1691) and the Federal Reserve Board's Regulation B (12 CFR Part 202) issued thereunder. NCUA is not required by either the Fair Housing Act or the Equal Credit Opportunity Act to promulgate regulations. However, the Board believes it helpful to Federal credit unions to have the nondiscrimination regulation in place. Comments were due on August 21, 1989. Five comment letters were received. Two national credit union trade associations, one state credit union league, one Federal credit union, and one savings and loan interest group commented. All five commenters agreed with the proposed changes.

In the interest of keeping this section simple to use and understand, the NCUA Board is making only minor technical changes and changes required by the Fair Housing Amendments Act of 1988 ("the Amendments Act") as proposed. The substantive changes required by the Amendments Act expand prohibited housing practices to include handicap and familial status (having children under the age of 18). These two classes have been added to paragraphs (b)(1), (b)(2), (c)(1), (c)(2) and (e)(1). The NCUA's Equal Housing Lender poster has also been revised to include these changes. (See paragraph (d)(3).) Lastly, current paragraph (e)(1) references two Supreme Court cases concerning discrimination. The Board believes the cited cases do not clarify nondiscrimination requirements for Federal credit unions and, as proposed, has deleted the references. The rest of the regulation remains unchanged.

Regulatory Procedures

This final rule makes no substantive changes to the current rule. Neither a Regulatory Flexibility Analysis nor Paperwork Reduction Act analysis are required.

Executive Order 12612

This regulation explains the law and sets forth previously established guidelines for Federal credit unions; it adds no new obligations. Although Federal statutes prohibiting discrimination (Fair Housing Act and Equal Opportunity Act) apply to state-chartered credit unions as well, this regulation does not apply to them.

List of Subjects in 12 CFR Part 701

Credit unions, Discrimination in real estate lending.

By the National Credit Union Administration Board on October 17, 1989.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA amends its regulation as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, and 1789. Section 701.31 is also authorized by 15 U.S.C. 3601-3610.

2. Section 701.31 is revised to read as follows:

§ 701.31 Nondiscrimination requirements.

(a) *Definitions.* As used in this part, the term:

(1) *Application* carries the meaning of that term as defined in 12 CFR 202.2(f) (Regulation B), which is as follows: "An oral or written request for an extension of credit that is made in accordance with procedures established by a creditor for the type of credit requested";

(2) *Dwelling* carries the meaning of that term as defined in 42 U.S.C. 3602(b) (Fair Housing Act), which is as follows: "Any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any building, structure, or portion thereof"; and

(3) *Real estate-related loan* means any loan for which application is made to finance or refinance the purchase, construction, improvement, repair, or maintenance of a dwelling.

(b) *Nondiscrimination in Lending.* (1) A Federal credit union may not deny a real estate-related loan, nor may it discriminate in setting or exercising its rights pursuant to the terms or conditions of such a loan, nor may it

discourage an application for such a loan, on the basis of the race, color, national origin, religion, sex, handicap, or familial status (having children under the age of 18) of:

- (i) Any applicant or joint applicant;
- (ii) Any person associated, in connection with a real estate-related loan application, with an applicant or joint applicant;
- (iii) The present or prospective owners, lessees, tenants, or occupants of the dwelling for which a real estate-related loan is requested;
- (iv) The present or prospective owners, lessees, tenants, or occupants of other dwellings in the vicinity of the dwelling for which a real estate-related loan is requested.

(2) With regard to a real estate-related loan, a Federal credit union may not consider a lending criterion or exercise a lending policy which has the effect of discriminating on the basis of race, color, national origin, religion, sex, handicap, or familial status (having children under the age of 18). Guidelines concerning possible exceptions to this provision appear in paragraph (e)(1) of this section.

(3) Consideration of any of the following factors in connection with a real estate-related loan is not necessary to a Federal credit union's business, generally has a discriminatory effect, and is therefore prohibited:

- (i) The age or location of the dwelling;
 - (ii) Zip code of the applicant's current residence;
 - (iii) Previous home ownership;
 - (iv) The age or location of dwellings in the neighborhood of the dwelling;
 - (v) The income level of residents in the neighborhood of the dwelling.
- Guidelines concerning possible exceptions to this provision appear in paragraph (e)(2) of this section.

(c) Nondiscrimination in appraisals.

(1) A Federal credit union may not rely upon an appraisal of a dwelling if it knows or should know that the appraisal is based upon consideration of the race, color, national origin, religion, sex, handicap, or familial status (having children under the age of 18) of:

- (i) Any applicant or joint applicant;
- (ii) Any person associated, in connection with a real estate-related loan application, with an applicant or joint applicant;
- (iii) The present or prospective owners, lessees, tenants, or occupants of the dwelling for which a real estate-related loan is requested;
- (iv) The present or prospective owners, lessees, tenants, or occupants of other dwellings in the vicinity of the

dwelling for which a real estate-related loan is requested.

(2) With respect to a real-estate related loan, a Federal credit union may not rely upon an appraisal of a dwelling if it knows or should know that the appraisal is based upon consideration of a criterion which has the effect of discriminating on the basis of race, color, national origin, religion, sex, handicap, or familial status (having children under the age of 18). Guidelines concerning possible exceptions to this provision appear in paragraph (e)(1) of this section.

(3) A Federal credit union may not rely upon an appraisal that it knows or should know is based upon consideration of any of the following criteria, for such criteria generally have a discriminatory effect, and are not necessary to a Federal credit union's business:

- (i) The age or location of the dwelling;
- (ii) The age or location of dwellings in the neighborhood of the dwelling;
- (iii) The income level of the residents in the neighborhood of the dwelling.

(4) Notwithstanding paragraph (c)(3) of this section, it is recognized that there may be factors concerning location of the dwelling which can be properly considered in an appraisal. If any such factor(s) is relied upon, it must be specifically documented in the appraisal, accompanied by a brief statement demonstrating the necessity of using such factor(s). Guidelines concerning the consideration of location factors appear in paragraph (e)(3) of this section.

(5) Each Federal credit union shall make available, to any requesting member/applicant, a copy of the appraisal used in connection with that member's real estate-related loan application. The appraisal shall be available for a period of 25 months after the applicant has received notice from the Federal credit union of the action taken by the Federal credit union on the real estate-related loan application.

(d) Nondiscrimination in advertising—(1) Advertising notice of nondiscrimination compliance.

(i) No Federal credit union may directly or indirectly engage in any form of advertising of real estate-related loans which implies or suggests that the Federal credit union discriminates in violation of the provisions of the Fair Housing Act or of this section. Advertisements of such loans shall include a facsimile of the following:



EQUAL HOUSING LENDER

We Do Business in Accordance With the
Federal Fair Housing Law and the
Equal Credit Opportunity Act

(ii) Advertisements of real estate-related loans which are broadcast on the radio shall contain the following statement: "The (insert name) Federal Credit Union is an equal housing lender."

(2) *Lobby notice of nondiscrimination compliance.* Every Federal credit union which engages in real estate-related lending shall conspicuously display in the public lobby of such credit union and in the public area of each office where such loans are made, in a manner so as to be clearly visible to the general public entering such lobby or area, a notice that incorporates a facsimile of the logotype and notice appearing in paragraph (d)(3) of this section. Posters containing this notice and logotype may be obtained from the Regional Offices of the National Credit Union Administration.

(3) *Logotype and notice of nondiscrimination compliance.* The logotype and text of the notice required in paragraph (d)(2) of this section shall be as follows:

BILLING CODE 7535-01-M



**EQUAL HOUSING
LENDER**

**We Do Business In Accordance With
Federal Fair Lending Laws**

**UNDER THE FEDERAL FAIR HOUSING ACT, IT IS ILLEGAL, ON THE BASIS OF
RACE, COLOR, NATIONAL ORIGIN, RELIGION, SEX, HANDICAP, OR FAMILIAL
STATUS (HAVING CHILDREN UNDER THE AGE OF 18), TO:**

- Deny a loan for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling, or deny any loan secured by a dwelling; or
- Discriminate in fixing the amount, interest rate, duration, application procedures or other terms or conditions of such a loan, or in appraising property.

**IF YOU BELIEVE YOU HAVE BEEN DISCRIMINATED
AGAINST, YOU SHOULD SEND A COMPLAINT TO:**

**Assistant Secretary for Fair Housing and Equal Opportunity
Department of Housing & Urban Development
Washington, D.C. 20410**

**For processing under the Federal Fair Housing Act
and to:**

**National Credit Union Administration
Office of Examination and Insurance
Washington, D.C. 20456**

For processing under NCUA Regulations

**UNDER THE EQUAL CREDIT OPPORTUNITY ACT, IT IS ILLEGAL
TO DISCRIMINATE IN ANY CREDIT TRANSACTION:**

- On the basis of race, color, national origin, religion, sex, marital status, or age,
- Because income is from public assistance, or
- Because a right was exercised under the Consumer Credit Protection Act.

**IF YOU BELIEVE YOU HAVE BEEN DISCRIMINATED
AGAINST, YOU SHOULD SEND A COMPLAINT TO:**

**National Credit Union Administration
Office of Examination and Insurance
Washington, D.C. 20456**

NCUA 1582 (Rev. 3/88)

(e) *Guidelines.* (1) Compliance with the Fair Housing Act is achieved when each loan applicant's creditworthiness is evaluated on an individual basis, without presuming that the applicant has certain characteristics of a group. If certain lending policies or procedures do presume group characteristics, they may violate the Fair Housing Act, even though the characteristics are not based upon race, color, sex, national origin, religion, handicap, or familial status. Such a violation occurs when otherwise facially nondiscriminatory lending procedures (either general lending policies or specific criteria used in reviewing loan applications) have the effect of making real estate-related loans unavailable or less available on the basis of race, color, sex, national origin, religion, handicap, or familial status. Note, however, that a policy or criterion which has a discriminatory effect is not a violation of the Fair Housing Act if its use achieves a legitimate business necessity which cannot be achieved by using less discriminatory standards. It is also important to note that the Equal Credit Opportunity Act and Regulation B prohibit discrimination, either per se or in effect, on the basis of the applicant's age, marital status, receipt of public assistance, or the exercise of any rights under the Consumer Credit Protection Act.

(2) Paragraph (b)(3) of this section prohibits consideration of certain factors because of their likely discriminatory effect and because they are not necessary to make sound real estate-related loans. For purposes of clarification, the prohibited use of location factors in this section is intended to prevent abandonment of areas in which a Federal credit union's members live or want to live. It is not intended to require loans in those areas that are geographically remote from the FCU's main or branch offices or that contravene the parameters of a Federal credit union's charter. Further, this prohibition does not preclude requiring a borrower to obtain flood insurance protection pursuant to the National Flood Insurance Act and Part 760 of NCUA's Rules and Regulations, nor does it preclude involvement with Federal or state housing insurance programs which provide for lower interest rates for the purchase of homes in certain urban or rural areas. Also, the legitimate use of location factors in an appraisal does not constitute a violation of the provision of paragraph (b)(3) of this section, which prohibits consideration of location of the

dwelling. Finally, the prohibited use of prior home ownership does not preclude a Federal credit union from considering an applicant's payment history on a loan which was made to obtain a home. Such action entails consideration of the payment record on a previous loan in determining creditworthiness; it does not entail consideration of prior home ownership.

(3)(i) Paragraph (c)(3) of this section prohibits consideration of the age or location of a dwelling in a real estate-related loan appraisal. These restrictions are intended to prohibit the use of unfounded or unsubstantiated assumptions regarding the effect upon loan risk of the age of a dwelling or the physical or economic characteristics of an area. Appraisals should be based on the present market value of the property offered as security (including consideration of specific improvements to be made by the borrower) and the likelihood that the property will retain an adequate value over the term of the loan.

(ii) The term "age of the dwelling" does not encompass structural soundness. In addition, the age of the dwelling may be used by an appraiser as a basis for conducting further inspections of certain structural aspects of the dwelling. Paragraph (c)(3) of this section does, however, prohibit an unsubstantiated determination that a house over X years in age is not structurally sound.

(iii) With respect to location factors, paragraph (c)(4) of this section recognizes that there may be location factors which may be considered in an appraisal, and requires that the use of any such factors be specifically documented in the appraisal. These factors will most often be those location factors which may negatively affect the short range future value (up to 3-5 years) of a property. Factors which in some cases may cause the market value of a property to decline are recent zoning changes or a significant number of abandoned homes in the immediate vicinity of the property. However, not all zoning changes will cause a decline in property values, and proximity to abandoned buildings may not affect the market value of a property because the cause of abandonment is unrelated to high risk. Proper considerations include the condition and utility of the improvement and various physical factors such as street conditions, amenities such as parks and recreation areas, availability of public utilities and

municipal services, and exposure to flooding and land faults.

[FR Doc. 89-25035 Filed 11-1-89; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 89-AWA-5]

Establishment of the Memphis Terminal Control Area and Revocation of the Memphis International Airport, Airport Radar Service Area; TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error in the airspace description of Area B of the Memphis, TN, Terminal Control Area (TCA). The boundaries of Area B should begin at the Memphis VORTAC 037° radial 13-mile fix, in lieu of, "a point 13 miles northeast of the Memphis International Airport on the Memphis VORTAC 037° radial." This action corrects that error, which appeared in the final rule, published on September 22, 1989.

EFFECTIVE DATE: 0901 UTC, November 2, 1989.

FOR FURTHER INFORMATION CONTACT: Alton D. Scott, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9252.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 89-22410 was published on September 22, 1989, establishing the Memphis International Airport TCA and revoking the Memphis International Airport, Airport Radar Service Area (54 FR 39112). Due to an administrative error, the airspace description of the Area B boundaries of the Memphis TCA incorrectly began at a point 13 miles northeast of the Memphis International Airport on the Memphis VORTAC 037° radial. The boundary of Area B should begin at the Memphis VORTAC 037° radial 13-mile fix. Current charts depicting the Memphis International Airport TCA were described correctly using the Memphis VORTAC for Area B. No correction to