formulate appropriate budgets. The budgets were formulated and discussed in public meetings. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rates recommended by the committees were derived by dividing anticipated expenses by expected shipments of Georgia Vidalia onions and California dates. Because these rates will be applied to actual shipments, they must be established at rates that will provide sufficient income to pay the Committees' expenses.

The Vidalia Onion Committee met July 23, 1992, and unanimously recommended a 1992–93 budget of $338,497. This is $145,697 more than the previous year. The size of the increase in the budget is due in large part to increased marketing activity, which appears necessary to the Committee as the crop size continues to grow. Increases include: $4,000 for furniture/ equipment lease and maintenance, $6,177 for office overhead, $14,255 for contract management, $22,950 for research, and $127,965 for marketing. These budget increases will be partially offset by decreases of $1,000 for office supplies and $2,000 for postage/courier, and the elimination of the supplemental marketing category for which $27,300 was budgeted last year.

The Committee also unanimously recommended an assessment rate of $0.10 per 50-pound bag, the same as last year. This rate, when applied to anticipated shipments of 2,094,517 50-pound bags, will yield $209,451 in assessment income. This, along with $14,000 in interest income and $115,046 from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the Committee's authorized reserve at the beginning of the 1992–93 fiscal period, estimated at $134,588, will be within the maximum permitted by the order of three fiscal periods' expenses.

The California Date Administrative Committee met on July 16, 1992, and recommended 1992–93 crop year expenditures of $495,500 and an assessment rate of $1.40 per hundredweight of assessable dates shipped under M.O. 987. In comparison 1991–92 crop year budgeted expenditures were initially established at $479,400 and the assessment rate was established at $1.40 per hundredweight. Subsequently, the Committee recommended an increase in expenditures of $155,000 for additional advertising and promotion expenditures, for a total budget of $634,400.

Included in 1992–93 budgeted expenditures is an operating budget of $121,703, with a 20% surplus account allocation, for a net operating budget of $97,363. The major expenditure item this year is $392,470 for continuation of the Committee's market promotion program. The industry is faced with an oversupply of product dates and the Committee considers this program necessary to stimulate sales. The remaining expenditures are for program administration and are budgeted at about last year's amounts.

Income for the 1992–93 season is expected to total $495,500. Such income consists of $490,000 in assessments based on shipments of 35,000,000 assessable pounds of dates at $1.40 per hundredweight, and $5,500 in interest income.

The Committee also recommended that any unexpended funds or excess assessments from the 1991–92 crop year be placed in its reserve. The Committee's reserve is well within the maximum amount authorized under the order.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived from the operation of the marketing orders. 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.

Interim final rules were published in the **Federal Register** on October 6, 1992, for 7 CFR part 955 (57 FR 45974), and 7 CFR part 987 (57 FR 45975). Those interim final rules added § 955.205 and § 987.335, authorized expenses, and established assessment rates for the Committees. Those rules provided that interested persons could file comments through November 5, 1992. No comments were received.

It is found that the specified expenses for the marketing orders covered in this rulemaking are reasonable and likely to be incurred and that such expenses and the specified assessment rates to cover such expenses will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because the Committees need to have sufficient funds to pay their expenses which are incurred on a continuous basis. The 1992–93 fiscal periods for the programs began on September 16, 1992, for Georgia Vidalia onions and October 1, 1992, for California dates, and the marketing orders require that the rates of assessment for the fiscal periods apply to all assessable onions and dates handled during the fiscal periods. In addition, handlers are aware of these actions which were recommended by the Committees at public meetings and published in the **Federal Register** as interim final rules. No comments were received concerning the two interim final rules that are adopted in this action as a final rule without change.

List of Subjects

7 CFR Part 955

Marketing agreements, Onions, Reporting and recordkeeping requirements.

7 CFR Part 987

Dates, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR parts 955 and 987 are hereby amended as follows:

1. The authority citation for 7 CFR Parts 955 and 987 continue to read as follows:

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

PART 955—VIDALIA ONIONS GROWN IN GEORGIA

Note: This section will not appear in the Code of Federal Regulations.

2. For the reasons set forth in the preamble, the interim final rule adding § 955.205 which was published at 57 FR 45974 on October 6, 1992, is adopted as a final rule without change.

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

Note: This section will not appear in the Code of Federal Regulations.

3. For the reasons set forth in the preamble, the interim final rule adding § 987.335 which was published at 57 FR 45975 on October 6, 1992, is adopted as a final rule without change.

Dated: December 21, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92–31662 Filed 12–29–92; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 982

[Docket No. FV92-982-1]

Filberts/Hazelnuts Grown in Oregon and Washington; Establishment of Interim and Final Free and Restricted Percentages for the 1992-93 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule establishes interim and final free and restricted percentages for domestic inshell filberts/hazelnuts for the 1992-93 marketing year under the Federal marketing order for filberts/hazelnuts grown in Oregon and Washington. The percentages allocate the amounts of domestically produced filberts/hazelnuts which may be marketed in domestic, export and other outlets. The percentages are intended to stabilize the supply of domestic inshell filberts/hazelnuts in order to meet the limited domestic demand for such filberts/hazelnuts and provide reasonable returns to producers. This action was recommended by the Filbert/Hazelnut Marketing Board (Board), which is the agency responsible for local administration of the order.

DATES: This interim final rule is effective on December 30, 1992. Comments which are received by January 29, 1993 will be considered prior to any finalization of the interim final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this action. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Teresa Hutchinson, Marketing Specialist, Northwest Marketing Field Office, Fruit and Vegetable Division, Agricultural Marketing Service, USDA, 1220 SW Third Ave., room 369, Portland, OR 97204; telephone (503) 326-2724 or Kathleen M. Finn, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2524-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2170.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under Marketing Agreement and Order No. 982 (7 CFR part 982), both as amended, regulating the handling of filberts/hazelnuts grown in Oregon and Washington. 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.

The Department of Agriculture (Department) is committed to carrying out its statutory and regulatory mandates in a manner that best serves the public interest. Therefore, where legal discretion permits, the Department actively seeks to promulgate regulations that promote economic growth, create jobs, are minimally bordensome, and are easy for the public to understand, use or comply with. In short, the Department is committed to issuing regulations that maximize net benefits to society and minimize costs imposed by those regulations. This principle is articulated in President Bush's January 28, 1992, memorandum to agency heads, and in Executive Orders 12291 and 12498. The Department applies this principle to the fullest extent possible, consistent with law.

The Department has developed and reviewed this regulatory proposal in accordance with these principles. Nonetheless, the Department believes that public input from all interested persons can be invaluable to ensuring that the final regulatory product is minimally bordensome and maximally efficient. Therefore, the Department specifically seeks comments and suggestions from the public regarding any less burdensome or more efficient alternative that would accomplish the purposes described in this action. Comments suggesting less burdensome or more efficient alternatives should be addressed to the agency as provided in this rule.

This rule has been reviewed by the Department in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This interim final rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his principal place of business, has jurisdiction, in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

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 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 1,000 producers of filberts/hazelnuts in the production area and approximately 25 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of filberts/hazelnuts may be classified as small entities.

The Board's recommendation and this interim final rule are based on requirements specified in the order. This rule will establish the amount of inshell filberts/hazelnuts that can be marketed in domestic markets. The domestic outlets for this commodity are characterized by limited demand, and the establishment of interim and final free and restricted percentages will benefit the industry by promoting stronger marketing conditions and stabilizing prices and supplies, thus improving grower returns.

The Board is required to meet prior to September 20 of each marketing year to compute an inshell trade demand and preliminary free and restricted

percentages, if the use of volume regulation is recommended during the season. The order prescribes formulas for computing the inshell trade demand, as well as preliminary, interim final, and final percentages. The inshell trade demand establishes the amount of inshell filberts/hazelnuts the market can utilize throughout the season, and the percentages release the volume of filberts/hazelnuts necessary to meet the inshell trade demand. The preliminary percentages provide for the release of 80 percent of the inshell trade demand. The interim final percentages release 100 percent of the inshell trade demand. The final free and restricted percentages release an additional 15 percent of the average of the preceding three years' trade acquisitions of inshell filberts/hazelnuts for desirable carryout.

The inshell trade demand equals the average of the preceding three "normal" years' trade acquisitions of inshell filberts/hazelnuts, rounded to the nearest whole number. The Board may increase such estimate by no more than 25 percent, if market conditions warrant such an increase.

The preliminary free and restricted percentages make available portions of the filbert/hazelnut crop which may be marketed in domestic inshell markets (free) and exported, shelled, or otherwise disposed of (restricted) early in the 1992–93 season. The preliminary free percentage is expressed as a percentage of the total supply subject to regulation and is based on preliminary crop estimates. The majority of domestic inshell filberts/hazelnuts are marketed in October, November, and December. By November, the marketing season is well under way.

At its August 26, 1992, meeting, the Board announced preliminary free and restricted percentage of 9 percent and 91 percent, respectively, to release 80 percent of the inshell trade demand. The purpose of releasing only 80 percent of the inshell trade demand under the preliminary percentage is to guard against underestimates of crop size. The preliminary restricted percentage is 100 percent minus the free percentage.

On or before November 15, the Board must meet again to recommend interim percentages and final percentages. The Board uses current crop estimates to calculate the interim final and final percentages. The interim percentages are calculated in the same way as the preliminary percentages and release 100 percent of the inshell trade demand previously computed by the Board for the marketing year. Final free and restricted percentages release an additional 156 percent of the average of the preceding three years' trade acquisitions to ensure adequate carryover into the following season. The final free and restricted percentages must be effective at least 30 days prior to the end of the marketing year (July 1 through June 30), or earlier, if recommended by the Board and approved by the Secretary. In addition, revisions in the marketing policy can be made until February 15 of each marketing year. However, the inshell trade demand can only be revised upward.

In accordance with other provisions, the Board met on November 12, 1992, reviewed and approved an amended marketing policy and recommended the establishment of interim free and restricted percentage of 11 percent and 89 percent, and final free and restricted percentages of 13 percent and 87 percent. The Board also recommended that the final percentages be effective on May 1, 1993, which is 60 days prior to the end of season. The marketing percentages are based on the industry's final production estimates and release of 3,354 tons of the domestic inshell market from the 1992 crop. The Oregon Agricultural Statistics Service provided an early estimate of 26,000 tons total production for the Oregon and Washington area. However, a handler survey conducted by the Board provided a more current estimate of 26,796 tons total production for the area. Therefore, the Board voted to unanimously accept the more current estimate of 26,796 tons.

The marketing percentages are based on the Board's production estimates and the following supply and demand information for the 1992–93 marketing year:

	Tons
Inshell supply:	
(1) Total production (Filbert/Hazelnut Marketing Board handler survey estimate)	26,796
(2) Less substandard, farm use (disappearance)	1,758
(3) Merchantile production (the Board's adjusted crop estimate)	25,038
(4) Plus undeclared carryin as of July 1, 1992, subject to regulation	984
(5) Supply subject to regulation (Item 3 plus Item 4)	26,022
Inshell trade demand:	
(6) Average trade acquisition of inshell filberts for three prior years	4,022
(7) Increase to encourage increased sales (5 percent)	201
(8) Less declared carryin as of July 1, 1992, not subject to regulation	1,472
(9) Adjusted Inshell Trade Demand	2,751
(10) 15 percent of the average trade acquisitions of inshell filberts for three prior years (items 6)	603
(11) Adjusted Inshell Trade Demand plus 15 percent (Item 9 plus Item 10)	3,354

Percentages	Free	Restricted
(12) Interim percentages (Item 9 divided by Item 5) × 100	11	89
(13) Final percentages (Item 11 divided by Item 5) × 100	13	87

In addition to complying with the provisions of the marketing order, the Board also considers the Department's 1982 "Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders" (Guidelines) when making its computations in the marketing policy. This volume control regulation provides a method to collectively limit the supply of inshell filberts/hazelnuts available for sale in domestic markets. The Guidelines provide that this primary market have available a quantity equal to 110 percent of recent years' sales in those outlets before secondary market allocations are approved. This provides for plentiful supplies for consumers and for market expansion while retaining the mechanism for dealing with oversupply situations. An additional increase of 5 percent (201 tons) has been included in the calculations used in determining the inshell trade demand. The established final percentages, which release 100 percent of the inshell trade demand, will make available 3,354 tons from the 1992 crop plus 1,472 tons of declared carryin which is 120 percent of prior years' sales, thus exceeding the goal of the Guidelines.

Based on the above, the Administrator of the AMS has determined that this interim final rule will not have a significant economic impact on a substantial number of small entities. Written comments, timely received in response to this action, will be considered before finalization of this rule.

After consideration of all available information, it is found that the establishment of interim and final free and restricted percentages, 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, upon good cause, 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) The 1992–93 marketing year began July 1, 1992, and the percentages established herein apply to all merchantable filberts/hazelnuts handled from the beginning of the crop year; (2) handlers are aware of this action, which was recommended at an open Board meeting, and need no additional time to comply with these percentages which release more filberts/hazelnuts than the preliminary percentages; and (3) interested persons are provided a 30-day comment period in which to respond. All comments timely received will be considered prior to finalization of this action.

List of Subjects in 7 CFR Part 982

Filberts, Hazelnuts, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 982 is amended as follows:

1. The authority citation for 7 CFR part 982 continues to read as follows:

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

PART 982—FILBERTS/HAZELNUTS GROWN IN OREGON AND WASHINGTON

Subpart—Grade and Size Regulation

2. Section 982.242 is added to read as follows:

Note: This section will not be published in the annual Code of Federal Regulations.

§ 982.242 Free and restricted percentages—1992–93 marketing year.

(a) The interim free and restricted percentages for merchantable filberts/hazelnuts for the 1992–93 marketing year shall be 11 and 89 percent, respectively.

(b) The final free and restricted percentages for merchantable filberts/hazelnuts for the 1992–93 marketing year shall be 13 and 87 percent, respectively. These percentages will be effective on May 1, 1993.

Dated: December 21, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92–31658 Filed 12–29–92; 8:45 am]

BILLING CODE 3410–02–M

Farmers Home Administration

7 CFR Part 1944

RIN 0575–AB36

Section 502—Rural Housing Loan Policies, Procedures and Authorizations

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) is amending its regulations to clarify that the appraisal fee will be included in the loan as an authorized loan purpose and to authorize a rural housing loan to exceed the market value of the security by the appraisal fee. The intended effect is to provide timely processing of home ownership loans for low- and very low-income families.

EFFECTIVE DATE: This action is effective on December 30, 1992 through September 30, 1993.

FOR FURTHER INFORMATION CONTACT: Ray McCracken, Senior Loan Specialist, Farmers Home Administration, USDA, Room 5334–S, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250, Telephone (202) 720–1474.

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 to be nonmajor because there is no substantial change from practices under existing rules that would have an annual effect on the economy of $100 million or more. There is no major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies; or geographical regions. Furthermore, there are no significant adverse effects on competition, employment, productivity, innovation, or in the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Discussion

Prudent lending practices dictate that appraisers should produce an objective opinion about the market value of a property. This objectivity may be compromised if the appraiser is involved in deciding to extend credit that is secured by such property. Under Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, it is intended that appraisals conform to the Uniform Standards of Professional Appraisal Practice (USPAP) as promulgated by the Appraisal Standards Board of the Appraisal Foundation. These appraisal standards will be mandatory December 31, 1992. The Executive Office of The President, Office of Management and Budget (OMB), directed credit Agencies through OMB Circular A–129 to comply with USPAP. Under the Conduct Section of the Ethics Provision of USPAP, the appraiser must perform appraisal assignments with objectivity, independence, and without accommodation of personal interests.

In order for FmHA to institute an appraisal process that institutes prudent lending practices and complies with the conduct provisions of USPAP, it must separate the duties of the appraiser and loan approval official. FmHA has instituted an appraisal process that does this and it is in the public interest that this process continues to ensure that the security value of a property is determined independently from a determination of the applicant's eligibility to purchase the property. To ensure the separation of loan approval and appraisal functions FmHA established a policy of hiring private appraisers. However, because of a reduction in the funds available for expenses such as the hiring of private appraisers, FmHA can no longer continue to pay for private appraisers for housing applicants without affecting its ability to deliver services to its borrowers and grantees. By instituting a fee for appraisal services that will be included in the loan amount, FmHA will have the resources to continue its appraisal process in compliance with the conduct provision of USPAP by December 31, 1992, and have funds for other expenses which cannot be recovered from applicants, borrowers, or grantees. To minimize the impact of the appraisal fee on borrowers, the Agency is authorizing the loan to exceed the security value of the property purchased by the amount of the appraisal fee.

Section 534 of the Housing Act of 1949 requires that all rules and regulations issued pursuant to that Act must be published for public comment. The one exception is for a rule or regulation issued on an emergency basis. This action is not published for proposed rule making since it involves an emergency situation, because without the resources to obtain appraisals, FmHA would have to delay the processing of loans for the purchase of homes by low- and very low-income families or otherwise cut back its services to applicants/borrowers and

grantees in other areas. By implementing the regulations as a final rule for the 1993 fiscal year only, it will permit FmHA to expeditiously process loans to low- and very low-income families to purchase safe, sanitary, and decent housing. Concurrently with publication of this rule, FmHA is publishing a proposed rule which would make these emergency changes for subsequent fiscal years.

Section 510 of the Housing Act of 1949 requires that fee appraisers be used in any county or district office where loan applications can not be expeditiously processed and to include the cost of the appraisal services in the loan or grant. By including the fee in the loan, when necessary, and amortizing the loan over 33 to 38 years the borrower's payment for this cost will be minimal and repayment ability should not be affected.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G. "Environmental Program." It is the determination of FmHA that this 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, Public Law 91–190, an Environmental Impact Statement is not required.

Civil Justice Reform

This document has been reviewed in accordance with Executive Order (EO) 12778. It is the determination of FmHA that this action does not unduly burden the Federal Court Systems in that it meets all applicable standards provided in section 2 of the EO.

Programs Affected

This program is listed in the catalog of Federal Domestic Assistance under 10.410, Low-Income Housing Loans.

Intergovernmental Consultation

For the reason set forth in the final rule and related Notice to 7 CFR part 3015, subpart V, 48 FR 29115, June 24, 1983, this program/activity is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

List of Subjects in 7 CFR Part 1944

Home improvement, Loan programs—housing and community development, Low and moderate income housing—rental, Mobile homes, Mortgages, Rural housing, Subsidies.

Therefore, chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1944—HOUSING

1. The authority citation for part 1944 continues to read as follows:

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

Subpart A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations

2. In § 1944.3 paragraph (b)(9) is suspended from December 30, 1992, through September 30, 1993, a new paragraph (b)(9) is added, and paragraph (b)(14) is revised to read as follows:

§ 1944.3 Loan purposes.

* * * * *

(b) * * *

* * * * *

(9) Pay incidental expenses such as fees for tax monitoring service, legal, title clearance, loan closing, architectural, appraisal, surveying, environmental, and other technical services and incidental expenses authorized in Exhibit F of this subpart.

* * * * *

(14) Provide living area for all members of the applicant's household including "extended family" as provided in § 1944.16(b).

3. In § 1944.17 the introductory text of paragraph (a) is suspended from (date of publication in the **Federal Register**) through September 30, 1993, and a new introductory text of paragraph (a) is added to read as follows:

§ 1944.17 Maximum loan amounts.

(a) An RH loan to buy or build a dwelling may be made up to the market value of the security plus an appraisal fee (the appraisal fee can only be added to the market value of the security through September 30, 1993) less the unpaid principal balance and past-due interest of any other liens against the security property for:

* * * * *

Dated: November 9, 1992.

La Verne Ausman,

Administrator, Farmers Home Administration.

[FR Doc. 92–31672 Filed 12–29–92; 8:45 am]

BILLING CODE 3410–07–M

Animal and Plant Health Inspection Service

9 CFR Part 11

[Docket No. 91–108]

Horse Protection Inspection Guidelines

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the Horse Protection regulations by revising the procedures to be followed by Designated Qualified Persons in conducting inspections at horse shows, exhibitions, and sales or auctions. This action is warranted to provide practicable inspection procedures that protect horses under the Horse Protection Act.

EFFECTIVE DATE: January 29, 1993.

FOR FURTHER INFORMATION CONTACT: Dr. R. L. Crawford, Director, Animal Care Staff, Regulatory Enforcement and Animal Care, APHIS, USDA, room 565, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7833.

SUPPLEMENTARY INFORMATION:

Background

The practice known as "soring" is the causing of suffering in show horses to affect their performance in the show ring. In 1970, Congress passed the Horse Protection Act (15 U.S.C. 1821–1831), referred to below as the Act, to eliminate the practice of soring, by prohibiting the showing or selling of sored horses. Exercising our rulemaking power under the Act, we issued regulations published at 9 CFR part 11, referred to below as the regulations, that prohibit devices and methods that might sore horses. In 1979, in response to an amendment to the Act, we established regulations under which show managements must, to avoid liability for any sore horses that are shown, hire individuals trained to conduct preshow inspections. These individuals, referred to as Designated Qualified Persons (DQP'S), are trained and licensed under industry-sponsored DQP programs that we certify and monitor.

The requirements for DQP licensing are set forth in § 11.7 of the regulations. As part of the licensing process, prospective DQP's are trained in procedures we have established for examining a horse prior to exhibition or sale. The inspection procedures include, but are not limited to, the examination by palpation of the horse's pasterns and visual examination of the horse.

On June 6, 1991, we published in the **Federal Register** (56 FR 26043–26044,

Docket No. 91–025) a proposal to amend the regulations to revise the procedures to be followed by DQP's in conducting inspections at horse shows, exhibitions, and sales or auctions.

Comments on the proposed rule were required to be received on or before July 8, 1991. We received 49 comments. The comments were from State officials, horse industry associations, a veterinary medical association, and the general public. Forty-four commenters supported the proposal as written. One commenter opposed the rule in its entirety. The remainder of the commenters suggested changes to the proposed provisions, as discussed below.

Inspection of Horses

We proposed to amend § 11.21(a)(2) to leave it to the discretion of the DQP whether to examine the rear limbs of all horses inspected after showing, and the rear limbs of horses examined preshow or on the showgrounds. However, we proposed to continue to require examination of the rear limbs of horses exhibiting lesions on the rear legs or unusual movement of the rear legs. In discussing our proposal not to require rear limb examination of all horses after showing, we cited the apparent low incidence of rear limb soring and the potential danger to DQP's from such examinations.

One commenter recommended that no fewer than all first-placed horses have their rear limbs inspected for edema, hair loss, scars, thickening of tissue, open lesions and bleeding in the rear limbs. Another stated that the existing rule requiring rear-limb examination in postshow inspections is the minimum necessary for effective enforcement of the Act. The commenter disagreed that inspecting the rear limbs of horses is potentially dangerous, because, according to the commenter, a properly trained DQP does not face any discernible risk of injury from the inspection. We are making no changes based on these comments. As we discussed in our proposal, the incidence of rear-limb soring does not justify requiring examination of all horses after showing, especially since the objective of soring is to get more weight on the hind limbs and elevate the front. We consider the regulations as proposed to be adequate to detect whatever soring might be done to the rear limbs of horses. Further, when examining the rear limbs of a horse, or doing anything around its rear limbs, there is always a danger of being kicked. Although there is less danger for experienced individuals, we believe rear-limb examination in post show inspections should not be required unless absolutely necessary.

One commenter requested that we clarify what constitutes "unusual movement," stating that training for the "big lick" show gait deliberately strives for an exaggerated, arguably "unusual," overstride in the rear limbs. We are making no changes based on this comment. We consider it clear that the regulations refer to movement that is unusual in comparison to the gait customarily used at shows.

We also proposed to amend § 11.21(a)(3) to require (1) that all action devices, pads and other equipment be observed and/or examined to assure they are in compliance with the regulations, and (2) that all horses examined postshow (which includes all Tennessee Walking Horses and racking horses tied first in their class or event), and all horses examined preshow that are not clearly in compliance, have their pads and action devices weighed and/or measured.

Two commenters opposed the change, stating that a visual examination is not accurate. These commenters recommended that all action devices be weighed and all pads measured. We are making no changes based on these comments. An experienced observer can visually detect questionable pads or devices. When detected, questionable pads and devices will be weighed and/or measured.

We proposed to amend § 11.21(b) to (1) provide that the DQP inspect horses no more than three classes ahead of the time the inspected horses are to be shown, except in smaller shows (those with fewer than 150 horses), where a horse would have to be inspected no more than two classes ahead of the time it is to be shown; and (2) amend the regulations to allow the rider, groom, and trainer to be present in the holding area, and to specify that DQP's and Animal and Plant Health Inspection Service (APHIS) representatives may also be present in the holding area.

One commenter recommended that the requirement for inspection three classes ahead be applied to all shows, not just to those with 150 or more horses. Another commenter opposed our proposed change, stating that numbing agents are sometimes used on sored horses before they are brought to inspection, and that these agents would wear off in time to produce the desired effect in the show ring if inspections are carried out three classes ahead. The commenter stated that maintaining the current requirement for inspections one class ahead would stop this abuse of the regulations. A third commenter stated that the proposed change is based on a perception that the current regulations will delay shows and rush DQP's and not on actual evidence that delays will occur. The commenter also expressed concern that requiring inspections three classes ahead would increase the number of people and horses in the holding area, making observation difficult and increasing the possibility of horses being sored after inspection.

We are making no changes based on these comments. We consider the proposal to offer the best balance between undesirable time constraints on trainers and DQP's and long waiting periods between inspection and entering the show ring. Although changing to three classes ahead will likely increase the number of individuals in the holding area compared to the number allowed under the one-class limit, we are confident it will not create an unmanageable situation. With regard to any use of numbing agents that might be occurring, we will gather additional information on the use of numbing agents and take whatever action we consider appropriate.

A number of commenters addressed the issue of who should be permitted in the holding area after a horse is inspected. One commenter recommended that we retain the current provisions permitting only the rider and one other person in the holding area. Several commenters requested that, in addition to the rider, groom, and trainer, other individuals, including private veterinarians, be allowed in the holding area. One commenter requested that the regulations specify that when the rider and trainer are the same person, no individuals other than that person and the groom be permitted in the holding area.

We are making no changes based on these comments. We continue to consider it appropriate to permit a rider, trainer, and groom—one individual more than currently permitted—in the holding area, specifying that DQP's and APHIS representatives may also be present, to allow for proper preparation of a horse for showing. We do not consider it appropriate or necessary to allow any additional individuals in the holding area. In order to allow for adequate monitoring of the holding area by DQP's, the number of individuals in that area must be limited to the minimum necessary. We also do not consider it necessary to reduce the number of individuals in the holding area in cases where a rider might also be a trainer. Identifying such situations would be difficult, and would be unnecessary in limiting the individuals

in the holding area to a manageable number.

Required Number of DQP's

We proposed to require that at least two DQP's be designated and appointed when more than 150 horses are entered in a show. Several commenters stated that inspecting more than 100 horses would be unworkable for one DQP because most horses are entered in more than one class, which the commenters estimated could result in approximately 400 entries to be inspected. Other commenters stated that the threshold should be raised to 200 horses before two DQP's are required. One of these commenters suggested as an alternative that we consider the number of horses shown during each 24-hour period at a multi-night show, rather than the total number of horses entered at the show.

Each horse entered in a class represents one entry—*i.e.*, if the same horse is entered in three classes, that represents three entries. A DQP must inspect a horse each time it is entered. We expect that at most one-night shows approximately 100 horses will enter 2–4 classes, resulting in approximately 200–400 entries. At multi-day shows, the same horse that entered three classes in a one-night show may enter those three classes each day, or, alternatively, enter them over a period of several days. Based on this projection, one DQP should be able to handle 150 horses without being overworked in either situation. However, based on our experience enforcing the regulations, we do not agree that one DQP would be able to conduct adequate inspections at shows at which close to 200 horses are entered. Finally, although we agree that the number of horses entered each day at a multi-day show may be fewer than the total number of horses entered in the show, for practical scheduling purposes, we consider it necessary to base the number of DQP's needed on the total number of horses entered at a show.

One commenter recommended that we allow time for the current regulations to be tested before we amend them. We are making no changes based on this recommendation. We developed our proposal in response to evidence presented to us by the horse industry, which we continue to consider compelling enough to warrant the changes as proposed.

A number of commenters raised issues outside the scope of our proposal, including APHIS staffing levels, a recommendation that action devices be prohibited, and a recommendation that tackboxes and towels be prohibited from the holding area. Although we are making no changes to our proposal based on these comments, we will carefully consider them and, if warranted, take appropriate action.

Based on the rationale set forth in the proposal and in this document, we are adopting the provisions of the proposed rule as a final rule.

Executive Order 12291, Executive Order 12278 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291 and Departmental Regulation 1512–1, and have determined that it is not a "major rule." Based on information complied by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. The Act does not provide administrative procedures which must be exhausted prior to a judicial challenge to the provisions of this rule.

The change in inspection procedures will provide for practicable, safe inspection procedures. We expect that the implementation of these regulations will not cause a significant change in the number of shows inspected by DQP's.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 11

Animal welfare, Horses, Humane animal handling, Soring of horses.

Accordingly, 9 CFR part 11 is amended as follows:

PART 11—HORSE PROTECTION REGULATIONS

1. The authority citation for part 11 continues to read as follows:

Authority: 15 U.S.C. 1823, 1824, 1825, and 1828; 44 U.S.C. 3506.

§ 11.20 [Amended]

2. In § 11.20, paragraph (c), the number "100" is removed and the number "150" is added in its place.

§ 11.21 [Amended]

3. In § 11.21, paragraph (a)(2), the fifth sentence is revised to read as follows: "The DQP may examine the rear limbs of all horses inspected after showing, and may examine the rear limbs of any horse examined preshow or on the showgrounds when he deems it necessary, except that the DQP shall examine the rear limbs of all horses exhibiting lesions on, or unusual movement of, the rear legs."

§ 11.21 [Amended]

4. In § 11.21, paragraph (a)(3), the second sentence is revised to read as follows: "All action devices, pads, and other equipment shall be observed and/or examined to assure that they are in compliance with the regulations. All such equipment on horses examined postshow, and on horses examined preshow that are not clearly in compliance, shall be weighed and/or measured."

§ 11.21 [Amended]

5. In § 11.21, paragraph (b), the first sentence is revised to read as follows: "The DQP shall inspect horses no more than three classes ahead of the time the inspected horses are to be shown, except that, in shows with fewer than 150 horses, the DQP shall inspect horses no more than 2 classes ahead of the time the inspected horses are to be shown."; and the last sentence is revised to read as follows: "Only the horse, the rider, the groom, the trainer, the DQP(s) and APHIS representatives shall be allowed in the designated area."

Done in Washington, DC, this 21st day of December 1992.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92–31493 Filed 12–29–92; 8:45 am]

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