procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Proposed Action

The AMA authorizes official inspection, grading, and certification for processed fruits, vegetables, and processed products made from them. The AMA provides that the Secretary collect reasonable fees from the users of the services to cover, as nearly as practicable, the costs of the services rendered. This rule would amend the schedule for fees for inspection services rendered to the processed fruit and vegetable industry to reflect the costs necessary to operate the program.

AMS regularly reviews its user fee programs to determine if the fees are adequate. While AMS continues to pursue opportunities to reduce its costs, the existing fee schedule will not generate sufficient revenues to cover lot, year round, and less than year round inspection program costs while maintaining an adequate reserve balance.

Based on the Agency's analysis of increasing program costs, AMS is proposing to increase the fees relating to lot, year round, and less than year round inspection services.

AMS projects that program costs will increase to approximately $14.4 million in FY 2004 and $14.9 million in FY 2005, primarily from increases in employee salaries and benefits. An estimated 3.4 percent pay increase for employees effective January 2004 and January 2005 will increase program costs approximately $375,000 in FY 2004 and approximately $390,000 in FY 2005. Without a fee increase, the FY 2004 and FY 2005 end-of-year reserve balances will decline from $4.3 million to $3.6 million (3.0 months reserve), and $2.4 million (1.9 months reserve), respectively. The required 4 month level would be approximately $5.0 million. The proposed fee increase ranging from 8 to 11 percent will increase revenue by $1.3 million per year and will enable AMS to replenish program reserves to a 4 month level, approximately $5.0 million, for both FYs 2004 and 2005.

For inspection services charged under § 52.42, overtime and holiday work would continue to be charged as provided in that section.

For inspection services charged on a contract basis under § 52.51 overtime work would also continue to be charged as provided in that section. The following fee schedule compares current fees and charges with proposed fees and charges for processed fruit and vegetable inspection as found in 7 CFR §§ 52.42–52.51. Unless otherwise provided for by regulation or written agreement between the applicant and the Administrator, the charges in the schedule of fees as found in § 52.42 are:

Current: $47.00/hr.
Proposed: $52.00/hr.

Charges for travel and other expenses as found in § 52.50 are:

Current: $47.00/hr.
Proposed: $52.00/hr.

Charges for year-round in-plant inspection services on a contract basis as found in § 52.51 (c) are:

(1) For inspector assigned on a year-round basis:

Current: $36.00/hr.
Proposed: $39.00/hr.

(2) For inspector assigned on less than a year-round basis: Each inspector:

Current: $48.00/hr.
Proposed: $52.00/hr.

Charges for less than year-round in-plant inspection services (four or more consecutive 40 hour weeks) on a contract basis as found in § 52.51 (d) are:

(1) Each inspector:

Current: $48.00/hr.
Proposed: $52.00/hr.

A thirty day comment period is provided for interested persons to comment on this proposed action. Thirty days is deemed appropriate because it's preferable to have any fee increase, if adopted, to be in place as close as possible to the beginning of the fiscal year, October 1, 2003.

List of Subjects in 7 CFR Part 52

Food grades and standards, Food labeling, Frozen foods, Fruit juices, Fruits, Reporting and record keeping requirements, and Vegetables.

For the reasons set forth in the preamble, 7 CFR part 52 is proposed to be amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

§ 52.42 [Amended]

2. In § 52.42, the figure ''$47.00'' is revised to read ''$52.00''.

§ 52.50 [Amended]

3. In § 52.50, the figure ''$47.00'' is revised to read ''$52.00''.

§ 52.51 [Amended]

4. In § 52.51, paragraph (c) (1), the figure ''$36.00'' is revised to read ''$39.00'', in paragraph (c) (2), the figure ''$48.00'' is revised to read ''$52.00'', and in paragraph (d) (1), the figure ''$48.00'' is revised to read ''$52.00''.

Dated: July 31, 2003.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 03–20008 Filed 8–5–03; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1124 and 1131

[Docket No. AO–368–A32, AO–271–A37; DA–03–04]

Milk in the Pacific Northwest and Arizona-Las Vegas Marketing Areas; Notice of Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

7 CFR part	Marketing area	AO Nos.
1124	Pacific Northwest.	AO–368–A32
1131	Arizona-Las Vegas.	AO–271–A37

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule; Notice of public hearing on proposed rulemaking.

SUMMARY: A public hearing is being held to consider proposals to amend the producer-handler provisions of the Arizona-Las Vegas and Pacific Northwest orders. The proposals seek to, among other things, end the regulatory exemption of producer-handlers from the pooling and pricing provisions of these two milk marketing orders if their Class I route distribution exceeds three million pounds of milk per month. Additionally, the hearing will consider a proposal that would prohibit the ability to simultaneously pool the same milk on the Arizona-Las Vegas order and on a State-operated milk order that provides for marketwide pooling.

DATES: The hearing will convene at 8:30 a.m. on Tuesday, September 23, 2003.

ADDRESSES: The hearing will be held at the Sheraton Airport Hotel, 1600 South 52nd Street, Tempe, AZ 85281, telephone: (480) 967–6600.

FOR FURTHER INFORMATION CONTACT: Jack Rower, Marketing Specialist, Order Formulation and Enforcement Branch, USDA/AMS/Dairy Programs, STOP 0231-Room 2971, 1400 Independence Avenue, Washington, DC 20250–0231, (202)–720–2357, e-mail address *jack.rower@usda.gov.*

Persons requiring a sign language interpreter or other special accommodations should contact

William Wise at (602)541–2909 or *wisew@fmma.net* before the hearing begins.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866.

Notice is hereby given of a public hearing to be held at the Sheraton Airport Hotel, 1600 South 52nd Street, Tempe, AZ 85281, telephone: (480) 967–6600, beginning at 8:30 a.m., on Tuesday, September 23, 2003, with respect to proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Arizona-Las Vegas and Pacific Northwest marketing areas.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders.

Actions under the Federal milk order program are subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This Act seeks to ensure that, within the statutory authority of a program, the regulatory and informational requirements are tailored to the size and nature of small businesses. For the purpose of the Act, a dairy farm is a ''small business'' if it has an annual gross revenue of less than $750,000, and a dairy products manufacturer is a ''small business'' if it has fewer than 500 employees. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

The amendments to the rules proposed herein have been reviewed under Executive Order 12988, Civil Justice Reform. They are not intended to have a retroactive effect. If adopted, the proposed amendments would not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Agricultural Marketing Agreement Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8c(15)(A) of the Act, any handler subject to an order may request modification or exemption from such order by filing with the Department 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 the law. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Department 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 its principal place of business, has jurisdiction in equity to review the Department's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

This public hearing is being conducted to collect evidence for the record concerning the definition, terms and conditions that are used to establish and regulate producer-handlers in the Arizona-Las Vegas and Pacific Northwest orders and how producer milk is defined in the Arizona-Las Vegas order. The hearing is intended to focus on matters related to these issues only. Witnesses are asked to limit their testimony to information pertaining directly to the definition of producer-handlers in the Arizona-Las Vegas and Pacific Northwest orders, the ability to simultaneously pool the same milk on the Arizona-Las Vegas order and on a State-operated order that provides for marketwide pooling, and closely related issues.

Interested parties who wish to introduce exhibits also should provide the Presiding Officer at the hearing with four (4) copies of such exhibits for the Official Record, it would be helpful if additional copies are available for the use of other participants at the hearing.

List of Subjects in 7 CFR Parts 1124 and 1131

Milk marketing orders.

The authority citation for 7 CFR parts 1124 and 1131 continues to read as follows:

Authority: 7 U.S.C. 601–674.

The proposed amendments, as set forth below, have not received the approval of the Department of Agriculture.

PART 1124—[AMENDED]

Proposed by Northwest Dairy Association: Proposal No. 1

Revise the *Producer-handler* provision of the Pacific Northwest milk marketing order in its entirety to read as follows:

§ 1124.10 Producer-handler.

Producer-handler means a person who operates a dairy farm and a distributing plant from which there is route distribution within the marketing area during the month not to exceed 3 million pounds and who the market administrator has designated a producer-handler after determining that all of the requirements of this section have been met.

(a) *Requirements for designation.* Designation of any person as a producer-handler by the market administrator shall be contingent upon meeting the conditions set forth in paragraphs (a)(1) through (5) of this section. Following the cancellation of a previous producer-handler designation, a person seeking to have their producer-handler designation reinstated must demonstrate that these conditions have been met for the preceding month.

(1) The care and management of the dairy animals and the other resources and facilities designated in paragraph (b)(1) of this section necessary to produce all Class I milk handled (excluding receipts from handlers fully regulated under any Federal order) are under the complete and exclusive control, ownership and management of the producer-handler and are operated as the producer-handler's own enterprise and its own risk.

(2) The plant operation designated in paragraph (b)(2) of this section at which the producer-handler processes and packages, and from which it distributes, its own milk production is under the complete and exclusive control, ownership and management of the producer-handler and is operated as the producer-handler's own enterprise and at its sole risk.

(3) The plant operation designated in paragraph (b)(2) of this section at which the producer-handler processes and packages, and from which it distributes at or through any of its designated milk handling, processing, or distributing resources and facilities other source milk products for reconstitution into fluid milk products or fluid milk derived from any source other than:

(i) Its designated milk production resources and facilities (own farm production);

(ii) Pool handlers and plants regulated under any Federal order within the

limitation specified in paragraph (c)(2) of this section; or

(iii) Nonfat milk solids which are used to fortify fluid milk products.

(4) The producer-handler is neither directly nor indirectly associated with the business control or management of, nor has a financial interest in, another handler's operation; nor is any other handler so associated with the producer-handler's operation.

(5) No milk produced by the herd(s) or on the farm(s) that supply milk to the producer-handler's plant operation is:

(i) Subject to inclusion and participation in a marketwide equalization pool under a milk classification and pricing program under the authority of a State government maintaining marketwide pooling of returns, or

(ii) Marketed in any part as Class I milk to the non-pool distributing plant of any other handler.

(b) *Designation of resources and facilities.* Designation of a person as a producer-handler shall include the determination of what shall constitute milk production, handling, processing, and distribution resources and facilities, all of which shall be considered an integrated operation, under the sole and exclusive ownership of the producer-handler.

(1) Milk production resources and facilities shall include all resources and facilities (milking herd(s), buildings housing such herd(s), and the land on which such buildings are located) used for the production of milk which are solely owned, operated, and which the producer-handler has designated as a source of milk supply for the producer-handler's plant operation. However, for purposes of this paragraph, any such milk production resources and facilities which do not constitute an actual or potential source of milk supply for the producer-handler's operation shall not be considered a part of the producer-handler's milk production resources and facilities.

(2) Milk handling, processing, and distribution resources and facilities shall include all resources and facilities (including store outlets) used for handling, processing, and distributing fluid milk products which are solely owned by, and directly operated or controlled by the producer-handler or in which the producer-handler in any way has an interest, including any contractual arrangement, or over which the producer-handler directly or indirectly exercises any degree of management control.

(3) All designations shall remain in effect until canceled pursuant to paragraph (c) of this section.

(c) *Cancellation.* The designation as a producer-handler shall be canceled upon determination by the market administrator that any of the requirements of paragraph (a)(1) through (5) of this section are not continuing to be met, or under any of the conditions described in paragraphs (c)(1), (2) or (3) of this section. Cancellation of a producer-handler's status pursuant to this paragraph shall be effective on the first day of the month following the month in which the requirements were not met or the conditions for cancellation occurred.

(1) Milk from the milk production resources and facilities of the producer-handler, designated in paragraph (b)(1) of this section, is delivered in the name of another person as producer milk to another handler.

(2) The producer-handler handles fluid milk products derived from sources other than the milk production facilities and resources designated in paragraph (b)(1) of this section, except that it may receive at its plant, or acquire for route disposition, fluid milk products from fully regulated plants and handlers under any Federal order if such receipts do not exceed 150,000 pounds monthly. This limitation shall not apply if the producer-handler's own-farm production is less than 150,000 pounds during the month.

(3) Milk from the milk production resources and facilities of the producer-handler is subject to inclusion and participation in a marketwide equalization pool under a milk classification and pricing plan operating under the authority of a State government.

(d) *Public announcement.* The market administrator shall publically announce:

(1) The name, plant location(s), and farm location(s) of persons designated as producer-handlers;

(2) The names of those persons whose designations have been cancelled; and

(3) The effective dates of producer-handler status or loss of producer-handler status for each. Such announcements shall be controlling with respect to the accounting at plants of other handlers for fluid milk products received from any producer-handler.

(e) *Burden of establishing and maintaining producer-handler status.* The burden rests upon the handler who is designated as a producer-handler to establish through records required pursuant to § 1000.27 that the requirements set forth in paragraph (a) of this section have been and are continuing to be met, and that the conditions set forth in paragraph (c) of this section for cancellation of the designation do not exist.

Proposed by Dairy Farmers of America: Proposal No. 2

Proposal 2 is identical to Proposal 1 except that it would also limit a producer-handler from distributing fluid milk products to a wholesale customer who is served by a fully regulated or partially regulated distributing plant that already supplies the same product in the same-sized package with a similar label to a wholesale customer during the month.

PART 1131—[AMENDED]

Proposed by United Dairymen of Arizona, Northwest Dairy, and Dairy Farmers of America: Proposal No. 3

Amend the *Producer-handler* definition of the Arizona-Las Vegas milk marketing order by revising § 1131.10 to read as follows:

§ 1131.10 Producer-handler.

Producer-handler means a person who operates a dairy farm and a distributing plant from which there is route distribution within the marketing area during the month not to exceed 3 million pounds and who the market administrator has designated a producer-handler after determining that all of the requirements of this section have been met.

(a) *Requirements for designation.* Designation of any person as a producer-handler by the market administrator shall be contingent upon meeting the conditions set forth in paragraphs (a)(1) through (5) of this section. Following the cancellation of a previous producer-handler designation, a person seeking to have their producer-handler designation reinstated must demonstrate that these conditions have been met for the preceding month.

(1) The care and management of the dairy animals and the other resources and facilities designated in paragraph (b)(1) of this section necessary to produce all Class I milk handled (excluding receipts from handlers fully regulated under any Federal order) are under the complete and exclusive control, ownership and management of the producer-handler and are operated as the producer-handler's own enterprise and its own risk.

(2) The plant operation designated in paragraph (b)(2) of this section at which the producer-handler processes and packages, and from which it distributes, its own milk production is under the complete and exclusive control, ownership and management of the producer-handler and is operated as the

producer-handler's own enterprise and at its sole risk.

(3) The plant operation designated in paragraph (b)(2) of this section at which the producer-handler processes and packages, and from which it distributes at or through any of its designated milk handling, processing, or distributing resources and facilities other source milk products for reconstitution into fluid milk products or fluid milk derived from any source other than:

(i) Its designated milk production resources and facilities (own farm production);

(ii) Pool handlers and plants regulated under any Federal order within the limitation specified in paragraph (c)(2) of this section; or

(iii) Nonfat milk solids which are used to fortify fluid milk products.

(4) The producer-handler is neither directly nor indirectly associated with the business control or management of, nor has a financial interest in, another handler's operation; nor is any other handler so associated with the producer-handler's operation.

(5) No milk produced by the herd(s) or on the farm(s) that supply milk to the producer-handler's plant operation is:

(i) Subject to inclusion and participation in a marketwide equalization pool under a milk classification and pricing program under the authority of a State government maintaining marketwide pooling of returns, or

(ii) Marketed in any part as Class I milk to the non-pool distributing plant of any other handler.

(6) The producer-handler does not distribute fluid milk products to a wholesale customer who is served by a plant described in § 1131.7(a), (b), or (e), or a handler described in § 1000.8(c) that supplied the same product in the same-sized package with a similar label to a wholesale customer during the month.

(b) *Designation of resources and facilities.* Designation of a person as a producer-handler shall include the determination of what shall constitute milk production, handling, processing, and distribution resources and facilities, all of which shall be considered an integrated operation, under the sole and exclusive ownership of the producer-handler.

(1) Milk production resources and facilities shall include all resources and facilities (milking herd(s), buildings housing such herd(s), and the land on which such buildings are located) used for the production of milk which are solely owned, operated, and which the producer-handler has designated as a source of milk supply for the producer-handler's plant operation. However, for purposes of this paragraph, any such milk production resources and facilities which do not constitute an actual or potential source of milk supply for the producer-handler's operation shall not be considered a part of the producer-handler's milk production resources and facilities.

(2) Milk handling, processing, and distribution resources and facilities shall include all resources and facilities (including store outlets) used for handling, processing, and distributing fluid milk products which are solely owned by, and directly operated or controlled by the producer-handler or in which the producer-handler in any way has an interest, including any contractual arrangement, or over which the producer-handler directly or indirectly exercises any degree of management control.

(3) All designations shall remain in effect until canceled pursuant to paragraph (c) of this section.

(c) *Cancellation.* The designation as a producer-handler shall be canceled upon determination by the market administrator that any of the requirements of paragraph (a)(1) through (5) of this section are not continuing to be met, or under any of the conditions described in paragraphs (c)(1), (2) or (3) of this section. Cancellation of a producer-handler's status pursuant to this paragraph shall be effective on the first day of the month following the month in which the requirements were not met or the conditions for cancellation occurred.

(1) Milk from the milk production resources and facilities of the producer-handler, designated in paragraph (b)(1) of this section, is delivered in the name of another person as producer milk to another handler.

(2) The producer-handler handles fluid milk products derived from sources other than the milk production facilities and resources designated in paragraph (b)(1) of this section, except that it may receive at its plant, or acquire for route disposition, fluid milk products from fully regulated plants and handlers under any Federal order if such receipts do not exceed 150,000 pounds monthly. This limitation shall not apply if the producer-handler's own-farm production is less than 150,000 pounds during the month.

(3) Milk from the milk production resources and facilities of the producer-handler is subject to inclusion and participation in a marketwide equalization pool under a milk classification and pricing plan operating under the authority of a State government.

(d) *Public announcement.* The market administrator shall publically announce:

(1) The name, plant location(s), and farm location(s) of persons designated as producer-handlers;

(2) The names of those persons whose designations have been cancelled; and

(3) The effective dates of producer-handler status or loss of producer-handler status for each. Such announcements shall be controlling with respect to the accounting at plants of other handlers for fluid milk products received from any producer-handler.

(e) *Burden of establishing and maintaining producer-handler status.* The burden rests upon the handler who is designated as a producer-handler to establish through records required pursuant to § 1000.27 that the requirements set forth in paragraph (a) of this section have been and are continuing to be met, and that the conditions set forth in paragraph (c) of this section for cancellation of the designation do not exist.

§ 1131.13 [Amended]

Proposed by United Dairymen of Arizona: Proposal No. 4

Revise the producer milk definition of the Arizona-Las Vegas milk marketing order so that the same milk cannot be simultaneously pooled on the Arizona-Las Vegas order and on a State-operated order that provides for marketwide pooling:

§ 1131.13 Producer milk.

1. Section 1131.13 is revised by adding a paragraph (e) to read as follows:

(d) * * *

(e) Producer milk shall not include milk of a producer that is subject to inclusion and participation in a marketwide equalization pool under a milk classification and pricing plan under the authority of a State government.

Proposed by Dairy Programs, Agricultural Marketing Service: Proposal No. 5

Make such changes as may be necessary to make the entire marketing agreements and the orders conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the orders may be procured from the Market Administrator of each of the aforesaid marketing areas, or from the Hearing Clerk, Room 1083, South Building, United States Department of Agriculture, Washington, DC 20250, or may be inspected there.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's Office. If you wish to purchase a copy, arrangements may be made with the reporter at the hearing.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decision-making process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture,

Office of the Administrator, Agricultural Marketing Service,

Office of the General Counsel,

Dairy Programs, Agricultural Marketing Service (Washington office) and the Offices of all Market Administrators.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Dated: July 31, 2003.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 03–19968 Filed 8–5–03; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

7 CFR Part 4279

RIN 0570–AA47

Fiscal and Transfer Agent—Secondary Market Sales

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Business-Cooperative Service (RBS) is proposing new regulations to standardize procedures for secondary market transactions, including initial and subsequent secondary market sales. The agency is proposing to solicit for an independent party to act as a Fiscal and Transfer Agent (FTA) to coordinate secondary market activities. RBS is taking this action to assure that lenders have a standard method in place to facilitate the paperwork and accounting associated with secondary market transactions for RBS Guaranteed Loans. While authority exists for guaranteed lenders to sell loans on the secondary market, many lenders are not active in the program because no such sales and accounting standards exist. RBS believes that implementing the FTA will result in increased secondary market sales. The intended effect of this action will be increased secondary market sales by lenders resulting in increased access to capital at competitive rates and terms by rural businesses. The FTA will serve as the record keeping facility for RBS, thus, eliminating the need for and cost of direct Government human and financial resources to administer the record keeping for sales on the secondary market.

DATES: Written comments on this proposed rule must be received on or before October 6, 2003 to be assured consideration. The comment period for the information collection under the Paperwork Reduction Act of 1995 continues through October 6, 2003.

ADDRESSES: Submit written comments either (1) via the U.S. Postal Service to the Regulations and Paperwork Management Branch, Attention: Tracy Givelekian, Rural Development, U.S. Department of Agriculture, STOP 0742, 1400 Independence Avenue, SW., Washington, DC 20250–0742; or (2) via Federal Express Mail to the Regulations and Paperwork Management Branch, Attention: Tracy Givelekian, USDA-Rural Development, 3rd Floor, 300 7th St., SW., Washington, DC 20024. Comments may also be submitted via the Internet by addressing them to *tracy.givelekian@usda.gov* and must contain the word ''transfer'' in the subject line. All comments will be available for public inspection during regular work hours at the 300 7th. Street, SW., address listed above.

FOR FURTHER INFORMATION CONTACT: Pandor H. Hadjy, Assistant Deputy Administrator, Business Programs, U.S. Department of Agriculture, Rural Business Cooperative Service, Room 5050, Stop 3220, 1400 Independence Ave., SW., Washington, DC 20250–3220, Telephone: 202–720–9693, FAX: (202) 690–0097, E-mail: *pandor.hadjy@usda.gov*.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12988

This proposed rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. RBS has determined that this proposed rule meets the applicable standards provided in section 3 of the Executive Order. In addition, all State and local laws and regulations that are in conflict with this rule will be preempted, no retroactive effect will be given to this rule, and administrative proceedings of the National Appeals Division (7 CFR part 11) must be exhausted before an action against the Department or its agencies may be initiated.

Regulatory Flexibility Act Certification

RBS has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Lenders participating in the Business and Industry Guaranteed Loan program are recipients of loan guarantees backed by the full faith and credit of the U.S. Government. This rule will not impact a substantial number of small entities to a greater extent than large entities. Therefore, a regulatory flexibility analysis was not performed.

Unfunded Mandates

This rule contains no Federal mandates (under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act of 1995.

National Environmental Policy Act Certification

The Administrator of RBS has determined that this proposed rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program impacted by this proposed rule is listed in the Catalog of Federal Domestic Assistance Programs under number 10.768, Business and Industry Loans.

Executive Order 12372

For the reasons set forth in the Final Rule related Notice to 7 CFR part 3015, subpart V, this program is subject to Executive Order 12372 which requires intergovernmental consultation with State and local officials. RBS has conducted intergovernmental consultation in the manner delineated in RD Instruction 1940–J.