

the final planting date if no late planting period is applicable;

* * * * *

[For FCIC Policies]

20. Appeals and Administrative Review. All determinations required by the policy will be made by us. If you disagree with our determinations, you may:

(a) Except as provided in section 20(b), obtain an administrative review of or appeal those determinations in accordance with appeal provisions published at 7 CFR part 400, subpart J or 7 CFR part 11. Disputes regarding the amount of assigned production for uninsured causes for your failure to use good farming practices must be resolved under this subsection.

(b) Request a reconsideration of our determination regarding good farming practices in accordance with the reconsideration process established for this purpose and published at 7 CFR part 400, subpart J. However, you must complete the reconsideration process before filing suit against us in the United States district court.

[For Reinsured Policies]

20. Arbitration, Appeals, and Administrative Review.

(a) If you and we fail to agree on any factual determination made by us, the disagreement will be resolved in accordance with the rules of the American Arbitration Association. Disputes regarding the amount of assigned production for uninsured causes must be resolved under this subsection.

(b) Except as provided in section 20(d), you may appeal any determination made by FCIC in accordance with appeal provisions published at 7 CFR part 400, subpart J or 7 CFR part 11.

(c) No award determined by arbitration, appeal, administrative review or reconsideration process can exceed the amount of liability established or which should have been established under the policy.

(d) If you do not agree with any determination made by us or FCIC regarding whether you have used a good farming practice, you may request reconsideration of this determination in accordance with the review process established for this purpose and published at 7 CFR part 400, subpart J. However, you must complete the reconsideration process before filing suit against FCIC in the United States district court. You cannot sue us for determinations of good farming practices.

* * * * *

34. Unit Division.

* * * * *

(c) * * *

(3) In addition to, or instead of, establishing optional units by section, section equivalent or FSA farm serial number, or irrigated and non-irrigated acreage, separate optional units may be established for acreage of the insured crop grown and insured under an organic farming practice. Certified organic, transitional and buffer zone acreages do not individually qualify as separate units. (See section 37 for additional provisions

regarding acreage insured under an organic farming practice).

* * * * *

36. Substitution of Yields.

(a) When you have actual yields in your production history database that, due to an insurable cause of loss, are less than 60 percent of the applicable transitional yield (T-yield) you may elect, on an individual actual yield basis, to exclude and replace one or more of any such yields within each database.

(b) Each election made in section 36(a) must be made on or before the sales closing date for the insured crop and each such election will remain in effect for succeeding years unless cancelled by the applicable cancellation date for the succeeding crop year. If you cancel an election, the actual yield will be used in the database. For example, if you elected to substitute yields in your database for the 1998 and 2000 crop year, for any subsequent crop year, you can elect to cancel the substitution for either or both years.

(c) Each excluded actual yield will be replaced with a yield equal to 60 percent of the applicable T-yield for the crop year in which the yield is being replaced (For example, if you elect to exclude a 2001 crop year actual yield, the T-yield in effect for the 2001 crop year in the county will be used. If you also elect to exclude a 2002 crop year actual yield, the T-yield in effect for the 2002 crop year in the county will be used). The replacement yields will be used in the same manner as actual yields for the purpose of calculating the approved yield.

(d) Once you have elected to exclude an actual yield from the database, the replacement yield will remain in effect until such time as that crop year is no longer included in the database unless this election is cancelled in accordance with section 36(b).

(e) Although your approved yield will be used to determine your amount of premium owed, the premium rate will be increased to cover the additional risk associated with the substitution of higher yields.

* * * * *

37. Organic Farming Practices.

(a) In accordance with section 8(b)(2), insurance will not be provided for any crop grown using an organic farming practice, unless the information needed to determine a premium rate for an organic farming practice is specified on the actuarial table, or insurance is allowed by a written agreement.

(b) If insurance is provided for an organic farming practice as specified in section 37(a), only the following acreage will be insured under such practice:

- (1) Certified organic acreage;
(2) Transitional acreage being converted to certified organic acreage in accordance with an organic plan; and
(3) Buffer zone acreage.

(c) On the date you report your acreage, you must have:

(1) For certified organic acreage, a written certification in effect from a certifying agent indicating the name of the entity certified, effective date of certification, certificate number, types of commodities certified, and name and address of the certifying agent (A certificate issued to a tenant may be used to

qualify a landlord or other similar arrangement);

(2) For transitional acreage, a certificate as described in section 37(c)(1), or written documentation from a certifying agent indicating an organic plan is in effect for the acreage; and

(3) Records from the certifying agent showing the specific location of each field of certified organic, transitional, buffer zone, and acreage not maintained under organic management.

(d) If you claim a loss on any acreage insured under an organic farming practice, you must provide us with copies of the records required in section 37(c).

(e) If any acreage qualifies as certified organic or transitional acreage on the date you report such acreage, and such certification is subsequently revoked by the certifying agent, or the certifying agent no longer considers the acreage as transitional acreage for the remainder of the crop year, that acreage will remain insured under the reported practice for which it qualified at the time the acreage was reported. Any loss due to failure to comply with organic standards will be considered an uninsured cause of loss.

(f) Contamination by application or drift of prohibited substances onto land on which crops are grown using organic farming practices will not be an insured peril on any certified organic, transitional or buffer zone acreage.

(g) In addition to the provisions contained in section 17(f), prevented planting coverage will not be provided for any acreage based on an organic farming practice in excess of the number of acres that will be grown under an organic farming practice and shown as such in the records required in section 37(c).

(h) In lieu of the provisions contained in section 17(f)(1) that specify prevented planting acreage within a field that contains planted acreage will be considered to be acreage of the same practice that is planted in the field, prevented planting acreage will be considered as organic practice acreage if it is identified as certified organic, transitional, or buffer zone acreage in the organic plan.

Signed in Washington, DC, on June 17, 2003.

Ross J. Davidson, Jr.,
Manager, Federal Crop Insurance Corporation.

[FR Doc. 03-15627 Filed 6-18-03; 3:42 pm]

BILLING CODE 3410-08-P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

[Docket No. FV03-930-2 FR]

Tart Cherries Grown in the States of Michigan, et al.; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule increases the assessment rate for tart cherries that are utilized in the production of tart cherry products other than juice, juice concentrate, or puree from \$0.00175 to \$0.0019 per pound. It also increases the assessment rate for cherries utilized for juice, juice concentrate, or puree from \$0.000875 to \$0.0019 per pound. The single assessment rate for all assessable tart cherries was recommended by the Cherry Industry Administrative Board (Board) under Marketing Order No. 930 for the 2002–2003 and subsequent fiscal periods. The Board is responsible for local administration of the marketing order which regulates the handling of tart cherries grown in the production area. Authorization to assess tart cherry handlers enables the Board to incur expenses that are reasonable and necessary to administer the program. The fiscal period began July 1, 2002, and ends June 30, 2003. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: This final rule becomes effective: June 26, 2003.

FOR FURTHER INFORMATION CONTACT:

Patricia A. Petrella or Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Suite 2A04, Unit 155, 4700 River Road, Riverdale, MD 20737, telephone: (301) 734–5243, or Fax: (301) 734–5275; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, or Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW, STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938, or e-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 930 (7 CFR part 930), regulating the handling of tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin, hereinafter referred to as the “order.” The marketing agreement and order are 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 (USDA) is issuing this final rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, tart cherry handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein would be applicable to all assessable tart cherries beginning July 1, 2002, and continue until amended, suspended, or terminated. This final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this final 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 USDA 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 request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing USDA 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 or her principal place of business, has jurisdiction to review USDA’s ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This final rule increases the assessment rate established for the Board for the 2002–2003 and subsequent fiscal periods for cherries that are utilized in the production of tart cherry products other than juice, juice concentrate, or puree from \$0.00175 to \$0.0019 per pound of cherries. The assessment rate for cherries utilized for juice, juice concentrate, or puree would also be increased from \$0.000875 to \$0.0019 per pound.

The tart cherry marketing order provides authority for the Board, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Board are producers and handlers of tart cherries. They are familiar with the Board’s needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment

rate or rates as appropriate. Assessment rates are formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2001–2002 fiscal period, the Board recommended, and USDA approved, assessment rates that will continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by the USDA upon recommendation and information submitted by the Board or other information available to USDA.

Section 930.42(a) of the order authorizes a reserve sufficient to cover one year’s operating expenses. The increased uniform rate is expected to generate enough income to meet the Board’s operating expenses in 2002–2003.

The Board met on January 24, 2002, and unanimously recommended 2002–2003 expenditures of \$522,500. The Board also recommended that an assessment rate of \$0.0019 be established for all tart cherry products if an amendment to do so passed in a May 2002 referendum of producers and processors. The amendment passed and was finalized by USDA on August 8, 2002 (67 FR 51698). The provisions requiring the establishment of different assessment rates for different products were removed. In their place, the Board is required to consider the volume of cherries used in making various products and the relative market value of those products in deciding whether the assessment rate should be a single, uniform rate applicable to all cherries or whether varying rates should be recommended for cherries manufactured into different products. Prior to the amendment passing in referendum, USDA issued a proposed rule on June 10, 2002 (67 FR 39637) proposing a dual assessment rate at higher amounts (\$0.0021 and \$0.00105, respectively, for high and low value cherry products) since the authority for a uniform assessment rate amendment was not yet effective. A rule withdrawing that proposal was published on April 2, 2003 (68 FR 15971). This proposal reflects the amended provisions and the Board’s January 24, 2002, recommendation.

The amended assessment provisions allow the Board to recommend a uniform single assessment rate for all assessable tart cherries handled, or variable rates depending on the quantities and values of the cherries used in the various products. A two-tiered assessment rate scheme may be appropriate in some years, but it may not be in others.

The amended order specifically provides that under § 930.41(f)(1) and (2) the established assessment rates may be uniform, or may vary depending on the product the cherries are used to manufacture. The Board may consider the differences in the number of pounds of cherries utilized for various cherry products and the relative market values of such cherry products. The Board considered the above items and decided that one assessment rate should be recommended for all assessable tart cherries for the 2002–2003 fiscal period.

According to the Board, processors have developed a strong market for juice and concentrate products over the past few years. There is considerable belief that juice will be one of the growth outlets for tart cherries. This derives from the industry's promotional efforts being undertaken for juice and concentrate products, the segmentation of the market into retail and industrial components and the nutritional/nutraceutical profile of the product. As a result, there has been an increase in consumer recognition, acceptance, purchases, and the value of tart cherry juice and concentrate. According to the Board, prices received for tart cherry juice concentrate are now \$25.00 per gallon or more. This is derived by using the fairly common conversion ratio of 100 pounds to the gallon for mid-west production, which has a raw product value of \$0.25 per pound. Using a 50 gallon conversion for the product, as has been used on the west coast, this represents a per pound value of \$0.50. The difference in the west and mid-west conversion factors is that tart cherries produced in the western United States generally have a higher sugar content and larger fruit size, thus fewer raw product is needed. The average grower price received ranges between \$0.17 to \$0.20 per pound.

According to the Board, puree products are as valuable and comparable to juice and juice concentrate products. The Board reported that the spot price for single strength puree for 2001–02 was about \$0.60 cents per pound. The raw product equivalent (RPE) volume of pureed fruit was 539,504 pounds which is about 0.15 percent of all processed fruit. The Board also reported for 2001–02 that the price for five plus one product was \$0.67 cents per pound. Five plus one is a product of cherries and sugar which is manufactured by many processors (25 pounds of cherries and five pounds of sugar to make a 30 pound commercial container). It is the main product that handlers produce. Five plus one cherries are primarily sold and remanufactured into assorted bakery

items, canned pie fill, and dried cherries. Since juice, juice concentrate, and puree are not considered to be low value products at this time, the Board considers one assessment to be appropriate. It is important to understand that product is moved around between production areas and may be converted into puree or concentrate at a later date. The market drives the processing of these various products each season.

In comparing the prices of juice, juice concentrate, and puree with the 5 plus 1 product, the Board determined that current prices for these products are similar. The information received from the Board indicates that puree products are becoming a viable market and should be assessed at a higher assessment rate.

As a result of this season's 2002–2003 short crop, much of the tart cherry products released from inventory were in the form of tart cherry juice and/or juice concentrate. There is not much, if any, of this product available on the market today. The Board contends that given these factors, it is hard to suggest that juice/concentrate, or puree, are of lesser value than are the more traditional products such as pie-fill or individually quick frozen tart cherries. Thus, the Board determined that one assessment rate is appropriate for the 2002–03 fiscal period.

Last year's budgeted expenditures were \$442,500. The recommended assessment rate of \$0.0019 is higher than the current rates of \$0.00175 for cherries used in the production of other than juice, juice concentrate, or puree products, and \$0.000875 for cherries used for juice, juice concentrate or puree products.

The major expenditures recommended by the Board for the 2002–2003 fiscal period include \$85,000 for meetings, \$170,000 for compliance, \$185,000 for personnel, \$80,000 for office expenses, and \$2,500 for industry educational efforts. Budgeted expenses for those items in 2001–2002 were \$80,000 for meetings, \$100,000 for compliance, \$185,000 for personnel, \$75,000 for office expenses, and \$2,500 for industry educational efforts, respectively. As discussed below, the Board's staff has taken steps to reduce actual expenditures for 2002–03 due to the assessment revenue shortfall. The recommended assessment rate of \$0.0019 is higher than the current rates of \$0.00175 and \$0.000875, respectively. The Board recommended an increased assessment rate to generate larger revenue to meet its expenses and keep its reserves at an acceptable level.

In deriving the recommended assessment rate, the Board determined assessable tart cherry production for the fiscal period at 260 million pounds. However, the tart cherry industry experienced a severe frost, mainly in Michigan, which significantly reduced the crop. The tart cherry industry is expected to only produce 60 million pounds. The Board staff has responded to this decrease in funds by reducing staff and Committee travel for meetings and used reserve funds to continue administrative operations this season. Therefore, total assessment income for 2002–2003 is estimated at \$114,000. This amount plus adequate funds in the reserve and interest income would be adequate to cover budgeted expenses. Funds in the reserve (approximately \$233,000) would be kept within the approximately six months' operating expenses as recommended by the Board consistent with § 930.42(a).

The assessment rate established in this final rule will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and other information submitted by the Board or other available information.

Although the assessment rate is effective for an indefinite period, the Board will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Board meetings are available from the Board or the USDA. Board meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate Board recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Board's 2002–2003 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by the USDA.

A minor change is made to the provisions of § 930.200 as proposed for clarification purposes.

The Regulatory Flexibility Act and Effects on Small Businesses

The Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities and has prepared this final regulatory flexibility analysis. The Regulatory Flexibility Act (RFA) allows AMS to certify that regulations do not have a significant economic impact on a substantial number of small entities. However, as a matter of general policy, AMS's Fruit and Vegetable Programs

(Programs) no longer opts for such certification, but rather performs regulatory flexibility analyses for any rulemaking that would generate the interest of a significant number of small entities. Performing such analyses shifts the Programs' efforts from determining whether regulatory flexibility analyses are required to the consideration of regulatory options and economic or regulatory impacts.

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 the 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 40 handlers of tart cherries who are subject to regulation under the order and approximately 900 producers of tart cherries in the regulated area. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than \$5,000,000, and small agricultural producers are those whose annual receipts are less than \$750,000. A majority of the tart cherry handlers and producers may be classified as small entities.

The Board unanimously recommended 2002–2003 expenditures of \$522,500 and assessment rate increases from \$0.00175 to \$0.0019 per pound for cherries that are utilized in the production of tart cherry products other than juice, juice concentrate, or puree, and from \$0.000875 to \$0.0019 per pound for cherries utilized for juice, juice concentrate, or puree.

This final rule increases the assessment rate established for the Board and collected from handlers for the 2002–2003 and subsequent fiscal periods for cherries that are utilized in the production of tart cherry products to \$0.0019 per pound. The quantity of assessable tart cherries expected to be produced during the 2002–2003 crop year was estimated at 260 million pounds. However, the tart cherry industry experienced a severe frost, mainly in Michigan, which has significantly reduced the crop. The tart cherry industry is expecting to only produce 60 million pounds during 2002–03. The Board staff has responded to this decrease in funds by reducing staff and Committee travel for meetings and is expected to use reserve funds to continue administrative operations this

season. Assessment income, based on this crop, along with interest income and reserves, would be adequate to cover budgeted expenses.

The major expenditures recommended by the Board for the 2002–2003 fiscal period include \$85,000 for meetings, \$170,000 for compliance, \$185,000 for personnel, \$80,000 for office expenses, and \$2,500 for industry educational efforts. Budgeted expenses for those items in 2001–2002 were \$80,000 for meetings, \$100,000 for compliance, \$185,000 for personnel, \$75,000 for office expenses, and \$2,500 for industry educational efforts, respectively.

The Board discussed the alternative of continuing the existing assessment rates, but concluded that would cause the amount in the operating reserve to be reduced to an unacceptable level. It also determined that a single uniform assessment rate for assessable tart cherries was appropriate.

The principal demand for tart cherries is in the form of processed products. Tart cherries are dried, frozen, canned, juiced, and pureed. Data from the National Agricultural Statistics Service (NASS) states that during the period 1995/96 through 2002/03, approximately 92 percent of the U.S. tart cherry crop, or 285.7 million pounds, was processed annually. Of the 285.7 million pounds of tart cherries processed, 58 percent was frozen, 30 percent was canned, and 12 percent was utilized for juice.

Based on NASS data, acreage in the United States devoted to tart cherry production has been trending downward. Since 1987/88 tart cherry bearing acres have decreased from 50,050 acres, to 36,900 acres in the 2002/03 crop year. In 2002/03, 93 percent of domestic tart cherry acreage was located in four States: Michigan, New York, Utah, and Wisconsin. Michigan leads the nation in tart cherry acreage with 74 percent of the total production. Michigan produces about 75 percent of the U.S. tart cherry crop each year. Tart cherry acreage in Michigan decreased from 28,500 acres in 2000–2001, to 27,400 acres in 2002–2003.

A review of historical information and preliminary information pertaining to the 2002–2003 fiscal period indicates that the grower price could range between \$0.448 and \$0.45 cents per pound of tart cherries. This is a high price due to the short crop this year. Therefore, the estimated assessment revenue for the 2002–2003 fiscal period as a percentage of total grower revenue could be less than one-half of one percent.

While this action will impose additional costs on handlers, the costs are in the form of assessments which are applied uniformly. Some of the costs may also be passed on to producers. However, these costs are offset by the benefits derived from the operation of the marketing order. The Board's meeting was widely publicized throughout the tart cherry industry and all interested persons were invited to attend the meeting and participate in Board deliberations on all issues. Like all Board meetings, the January 24, 2002, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

Finally, interested persons were invited to submit information on the regulatory and informational impacts of this action on small businesses and no comments were received.

This action will impose no additional reporting or recordkeeping requirements on either small or large tart cherry handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A proposed rule concerning this action was published in the **Federal Register** on May 22, 2003 (68 FR 27943). Copies of the rule were mailed or sent via facsimile to all Board members and tart cherry handlers. In addition, the rule was made available through the Internet by the Office of the Federal Register and USDA. A 10-day comment period ending June 2, 2003, was provided to allow interested persons to respond to the proposal. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant matters presented, including the information and recommendation submitted by the Board and other available information, it is hereby found that this rule, as hereinafter set forth, 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 rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because the 2002–2003

fiscal period began on July 1, 2002, and ends on June 30, 2003, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable tart cherries handled during such fiscal period. Further, handlers are aware of this action which was unanimously recommended by the Board at a public meeting. Also, a 10-day comment period was provided in the proposed rule and no comments were received.

List of Subjects in 7 CFR Part 930

Marketing agreements, Reporting and recordkeeping requirements, Tart cherries.

■ For the reasons set forth in the preamble, 7 CFR part 930 is amended as follows:

PART 930—TART CHERRIES GROWN IN THE STATES OF MICHIGAN, NEW YORK, PENNSYLVANIA, OREGON, UTAH, WASHINGTON, AND WISCONSIN

■ 1. The authority citation for 7 CFR part 930 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 930.200 is revised to read as follows:

§ 930.200 Handler assessment rate.

On and after July 1, 2002, the assessment rate imposed on handlers shall be \$0.0019 per pound of tart cherries grown in the production area and utilized in the production of tart cherry products.

Dated: June 19, 2003.

Kenneth C. Clayton,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 03–16138 Filed 6–24–03; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 91

[Docket No. 02–127–2]

Ports Designated for Exportation of Livestock; Portland, OR

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Withdrawal of a direct final rule.

SUMMARY: This document withdraws the direct final rule that notified the public of our intention to amend the “Inspection and Handling of Livestock for Exportation” regulations by

designating Portland International Airport in Portland, OR, as a port of embarkation and B Bar C Ranch, in Gervais, OR, and Pony World Farm in Portland, OR, as export inspection facilities for that port. This action is necessary because we received a written adverse comment in response to the direct final rule.

DATES: The direct final rule is withdrawn as of June 25, 2003.

FOR FURTHER INFORMATION CONTACT: Dr. Roger Perkins, Senior Staff Veterinarian, Technical Trade Services, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737–1231; (301) 734–8364.

SUPPLEMENTARY INFORMATION:

Background

In a direct final rule published in the *Federal Register* on May 19, 2003 (68 FR 26990–26991, Docket No. 02–127–1), we notified the public of our intention to amend the “Inspection and Handling of Livestock for Exportation” regulations by designating Portland International Airport in Portland, OR, as a port of embarkation and B Bar C Ranch, in Gervais, OR, and Pony World Farm in Portland, OR, as export inspection facilities for that port.

We solicited comments concerning the direct final rule for 30 days ending June 18, 2003. We stated that the effective date of the direct final rule would be 60 days after publication of the direct final rule in the *Federal Register*, unless we received a written adverse comment or a written notice of intent to submit an adverse comment. We also stated that if we received any written adverse comment or any written notice of intent to submit an adverse comment, we would publish a notice in the *Federal Register* withdrawing the direct final rule before the scheduled effective date and would publish a proposed rule for public comment.

We received one written adverse comment. Therefore, we are withdrawing the direct final rule and, at a later date, we will publish a proposed rule in the *Federal Register*.

Authority: 7 U.S.C. 8301–8317; 19 U.S.C. 1644a(c); 21 U.S.C. 136, 136a, and 618; 46 U.S.C. 3901 and 3902; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 19th day of June, 2003.

Bobby R. Acord,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03–16039 Filed 6–24–03; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 320 and 381

[Docket No. 01–034N]

Need To Complete New Registration Form and Importance of Compliance With Recordkeeping and Registration Requirements Under the Federal Meat and Poultry Products Inspection Regulations

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Policy statement and request for comments.

SUMMARY: Since 1970, FSIS has required registration by: Meat brokers; poultry products brokers; renderers; animal food manufacturers; wholesalers; warehousemen; and persons that engage in the business of buying, selling, transporting in commerce, or importing, any dead, dying, disabled, or diseased livestock (that is, cattle, sheep, swine, goats, horses, mules, or other equines) or poultry, or parts of the carcasses of livestock or poultry that have died otherwise than by slaughter. Also since 1970, FSIS has required these parties, all official establishments, and carriers and importers of poultry or livestock carcasses or parts or products of poultry or livestock carcasses to keep business records and to make such records available to FSIS employees upon request. Registration information and business records are critical in any FSIS investigation related to public health, food safety, or misbranding of meat or poultry products. For example, should Bovine Spongiform Encephalopathy (BSE), a neurogenetic disease in cattle, be introduced in the United States, registration information and business records will be crucial in tracing the source of BSE and in preventing its spread. FSIS intends to increase its enforcement of the registration and recordkeeping requirements to ensure that all businesses subject to the Federal Meat Inspection Act and Federal Poultry Products Inspection Act that are required to be registered with FSIS and/or to maintain business records are properly doing so.

In this notice, FSIS is also informing the public that the Agency has developed a new registration form. Because this form requires that registrants provide certain information that was not required on the previous form, all parties required to register, including those that are currently registered, must complete the new form and submit it to FSIS. Parties must