

or greater. A specified percentage of the total quota amount was allocated to a group of countries specified in the Proclamation and designated as "Other Specified Countries and Areas" (more commonly known as the "basket category"). The percentage allocation of the quota to the basket category was pooled and each country competed on a first-come-first-serve basis for the entire allocation.

Proclamation No. 4941 further provided that notwithstanding the allocation provisions set forth in the Proclamation, the Secretary may, after consultation with the U.S. Trade Representative, the Department of State, and the Department of the Treasury, issue regulations modifying the allocation provisions governing "Other Specified Countries and Areas" if the Secretary determines that such modifications are appropriate to provide such countries and areas reasonable access to the United States sugar market.

These allocation provisions were modified in an interim rule published in the *Federal Register* on August 11, 1982 (47 FR 34769) to provide that each country in the basket category would have a specific annual quota. Under that interim rule, each country received a quota allocation equal to its pro rata share of the quota allocation for the basket category, or 16,500 short tons, raw value, whichever was greater.

The interim rule (47 FR 34769) was adopted as a final rule with a modification and was published in the *Federal Register* on December 6, 1985 (50 FR 49919). The final rule modified the maximum level allocated to individual countries in the basket category. Each country received a quota allocation equal to its pro rata share of the quota allocation for the basket category, or 12,500 short tons, raw value, whichever is greater.

The final rule (50 FR 49919) was further modified by an interim rule published in the *Federal Register* on December 18, 1986 (51 FR 45295) which reduced the maximum quota allocated to each basket country to a level equal to its pro rata share of the percentage allocation for the basket category, or 7,500 short tons, raw value, whichever is greater. No comments were received with respect to the interim rule.

The interim rule (51 FR 45295) was adopted as a final rule with a modification and was published in the *Federal Register* on December 18, 1987 (52 FR 48079). The final rule modified the maximum level allocated to individual countries in the basket

category. Each country received a quota allocation equal to its pro rata share of the quota allocation for the basket category, or 5,770 short tons, raw value, whichever is greater.

This interim rule modifies the final rule (52 FR 48079) by revising the quota amount each basket country will receive to a level equal to its pro rata share of the percentage allocation for the basket category, or 8,000 short tons, raw value, whichever is greater.

After consultation with the United States Trade Representative, the Department of State, and the Department of the Treasury, the Secretary of Agriculture has determined that the modification of the allocation provisions covering the basket category is appropriate to provide countries or areas in the basket category with reasonable access to the United States sugar market, in light of changed circumstances affecting such access. It has also been determined that these provisions are appropriate to carry out U.S. obligations under the General Agreement on Tariffs and Trade.

List of Subjects in 7 CFR Part 6

Agricultural commodities, Foreign trade, Imports, Quotas, Sugar.

Accordingly, 7 CFR Part 6, Subpart—Sugar Import Quotas is modified as follows:

PART 6—[AMENDED]

1. The authority citation for Subpart—Sugar Import Quotas (§§ 6.90–6.93) reads as follows:

Authority: Section 201, Trade Expansion Act of 1962 (19 U.S.C. 1821); Presidential Proclamation 4941, May 5, 1982 (47 FR 19661); Headnotes 2 and 3, Subpart A, Part 10, Schedule 1 of the Tariff Schedules of the United States (19 U.S.C. 1202).

2. Section 6.91(a)(2) is revised to read as follows:

§ 6.91 Allocation of individual import quotas.

(a) * * *

(1) * * *

(2) 8,000 short tons, raw value.

* * * * *

Signed at Washington, DC on July 22, 1988.

Richard E. Lyng,

Secretary of Agriculture.

[FR Doc. 88-16935 Filed 7-25-88; 8:45 am]

BILLING CODE 3410 10 M

Animal and Plant Health Inspection Service

7 CFR Part 300

[Docket No. 88-015]

Incorporation by Reference; Plant Protection and Quarantine Treatment Manual

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the Plant Protection and Quarantine regulations to give notice that we are incorporating by reference at 7 CFR 300.1 a revision to the Plant Protection and Quarantine Treatment Manual. In an interim rule effective November 30, 1987, we added to the manual a hot water dip as an acceptable treatment procedure for the Carrot variety and certain other varieties of mangoes from Haiti. However, we inadvertently listed incorrect temperature requirements in the manual; the previously published temperature requirements are applicable for the hot water dip treatment. Therefore, we are correcting the manual to include the proper temperature requirements.

EFFECTIVE DATE: August 26, 1988.

FOR FURTHER INFORMATION CONTACT: James Fons, Senior Staff Officer, Technology Development Staff, PPQ, APHIS, USDA, Room 626, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8896.

SUPPLEMENTARY INFORMATION:

Background

Chapter III of Title 7, Code of Federal Regulations (regulations), contains the regulations of Plant Protection and Quarantine (PPQ) of the Animal and Plant Health Inspection Service. Section 300.1 of the regulations incorporates by reference the Plant Protection and Quarantine Treatment Manual (PPQ Treatment Manual). The PPQ Treatment Manual contains procedures and schedules for treating various regulated articles so that these articles may move into or within the United States and not present a plant pest risk.

In an interim rule published in the *Federal Register* and effective November 30, 1987 (52 FR 45596, Docket 87-127), we amended § 300.1 of the regulations to show that the PPQ Treatment Manual, which is incorporated by reference and on file at the Office of the Federal Register, had been revised to include a hot water dip as an acceptable treatment for the

Carrot variety and certain other varieties of mangoes from Haiti.

Comments on the interim rule were required to be postmarked or received on or before December 30, 1987. We received one comment, which opposed the interim rule.

The State of California Department of Food and Agriculture commented that recent interceptions in California of live *Anastrepha obliqua* in Francis variety mangoes, where the larvae found was third instar larvae taken from green, hard mangoes, raises some questions about the efficacy of the hot water treatment against *Anastrepha obliqua* in any variety of mango. The commenter believes our interim rule to be premature, and therefore recommends that we maintain the present ban on hot water treated Francis variety mangoes. We are not making any change based on this comment. The California Department of Food and Agriculture admits that its questions about the efficacy of the treatment are based on an assumption that the infected mangoes were treated properly. The fact that the intercepted mangoes were infested means that they could not have been treated properly. The hot water dip treatment we approved is effective in destroying *Anastrepha obliqua* when conducted in accordance with the prescribed procedures.

When we revised the PPQ Treatment Manual in November 1987 to add the Carrot variety to the hot water dip treatment, we inadvertently listed incorrect temperature requirements. We have revised the PPQ Treatment Manual to include the correct temperature requirements. These revisions are incorporated by reference in the regulations at 7 CFR 300.1. Plant Protection and Quarantine field personnel who supervise the treatment were instructed to follow the previously published accurate temperature requirements for the hot water dip treatment. All hot water dip treatments have been in accordance with accurate procedures.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled 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.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

Most mangoes consumed in the United States are imported. Historically, about 65 percent of the mangoes consumed annually have come from Mexico. Haiti provides about 11 percent, and 4 percent come from other countries. Domestic production is limited to 2,100 acres in Florida. In fiscal year 1986, this area produced about 20 million pounds of the fruit, approximately 20 percent of the mangoes consumed in the United States. Because of the growing conditions necessary for mangoes, we do not expect U.S. production to increase. Most of our supply will continue to come from foreign sources. We also do not anticipate that this rule will result in any decrease in the demand for Florida mangoes, which have a well-established market.

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 or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 7 CFR Part 300

Incorporation by reference, Plant diseases, Plant pests.

Accordingly, Title 7, Chapter III is amended as follows:

PART 300—INCORPORATION BY REFERENCE

1. The authority citation for Part 300 continues to read as follows:

Authority: 7 U.S.C. 150ee, 161.

2. Section 300.1, paragraph (a) is revised to read as follows:

§ 300.1 Materials incorporated by reference.

(a) The Plant Protection and Quarantine Treatment Manual, which was reprinted May 1985, and includes all revisions issued through July 1988, has been approved for incorporation by reference in 7 CFR Chapter III by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51.

Done in Washington, DC, this 22nd day of July, 1988.

Larry B. Slagle,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88-16939 Filed 7-26-88; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 1230

[No. LS-88-015]

Pork Promotion, Research, and Consumer Information Program; Procedures for Conduct of Referendum

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this action is to adopt as a final rule regulations for the conduct of a referendum which were proposed in the Federal Register on June 8, 1988. The Pork Promotion Research, and Consumer Information Act of 1985 authorizes the establishment of a national industry funded and operated pork promotion research and consumer information program. Pursuant to the Act, a referendum among pork producers and importers of porcine animals, pork, and pork products will be conducted to determine whether the Pork Promotion, Research, and Consumer Information Order which was implemented September 5, 1986, should be continued. The Act requires the Secretary to conduct such referendum between 24 months and 30 months after the issuance date of an Order to determine whether the Order should be continued. Accordingly, the referendum must be held on or after September 5, 1988, but not later than March 5, 1989. This final rule establishes the procedures for conducting the required referendum on September 7 and 8, 1988.

DATE: July 27, 1988.

ADDRESS: Ralph L. Tapp, Chief, Marketing Programs and Procurement Branch, Livestock and Seed Division, Agricultural Marketing Service (AMS),

USDA, Room 2610-So., P.O. Box 96456, Washington, DC 20090-6456.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs and Procurement Branch (202) 447-2650.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established to implement Executive Order No. 12291 and Departmental Regulation No. 1512-1 and has been classified as a non-major rule under the criteria contained therein.

This action has also been reviewed under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This final rule establishes procedures for the conduct of a referendum to determine whether the Pork Promotion, Research, and Consumer Information Order should be continued. It permits all eligible pork producers and importers of porcine animals, pork, and pork products to register and to vote. Participation in the referendum is voluntary. Votes may be cast in person at county offices of the Extension Service or by absentee ballot. The Administrator of the Agricultural Marketing Service (AMS) has determined that this rule will not have a significant economic impact on a substantial number of small entities. Therefore, a Regulatory Flexibility Analysis was not prepared.

The Pork Promotion, Research, and Consumer Information Act of 1985 (Act) (7 U.S.C. 4801 *et seq.*) provides for the establishment of a coordinated program of promotion and research designed to strengthen the pork industry's position in the marketplace and to maintain and expand domestic and foreign markets and uses for pork and pork products. The program is financed by an assessment of 0.25 percent of the market value of domestic porcine animals and an equivalent amount on imported porcine animals and imported pork and pork products. Pursuant to the Act, an Order was made effective September 5, 1986, and the collection of assessments began on November 1, 1986.

The Act requires that a referendum be conducted during a period beginning not earlier than 24 months after the issuance of the Order and ending not later than 30 months after the issuance of the Order to determine whether the Order should be continued. Accordingly, registration for and voting in the referendum will occur on September 7 and 8, 1988. The referendum is to be conducted among person who were producers of porcine animals or importers of porcine animals, pork, or pork products during a representative period specified by the Secretary for the purpose of determining whether the Order should be continued.

The representative period has been established as November 1, 1986, to September 6, 1988. The Order shall be continued only if it is approved by a majority of persons voting in the referendum. If continuation of the Order is not approved by a majority of those persons voting in the referendum, the Secretary shall terminate collection of assessments under the Order within 6 months after the Secretary determines that the continuance of the Order is not favored by a majority of those persons voting in the referendum and shall terminate the Order in an orderly manner as soon as practicable after such determination.

The Act specifies that the referendum shall be conducted in such manner as prescribed by the Secretary.

Voting and registration will take place at county offices of the U.S. Department of Agriculture's Extension Service. On June 8, 1988, the Agricultural Marketing Service (AMS) published in the *Federal Register* (53 FR 21456) a proposed rule which set forth procedures for conducting the referendum including provisions concerning definitions, supervision, registration, voting procedures, reporting referendum results, and disposition of ballots and records. It was proposed that the referendum be conducted at county Extension Service offices under the supervision of the county Extension Service agent and that the Agricultural Stabilization and Conservation Service (ASCS) of the Department assist in the conduct of the referendum by (1) counting ballots, (2) determining the eligibility of challenged voters, and (3) reporting referendum results.

The rule also proposed that the representative period for the referendum be from November 1, 1986, to September 6, 1988; that registration for and voting in the referendum occur on September 7 and 8, 1988; and that absentee ballots be available from State ES offices during the period August 1, 1988, to August 26, 1988.

The proposed rule requested comments from interested persons by June 23, 1988. The Department received 38 written comments. Thirty-five commenters, including 10 individuals, the National Pork Board, 2 national pork producer organizations, 19 State pork producer associations, 1 national importers association, 1 national farmers organization, and 1 State farmers organization supported the referendum procedures as proposed.

The remaining three commenters, including one individual, one State pork producer association, and one State farmers organization, generally supported the proposed referendum

procedures with certain qualifications. Five commenters pointed out grammatical errors in §§ 1230.630 and 1230.635. Those errors have been corrected in this final rule.

The substantive changes suggested by the commenters are discussed below. One State farmers organization which generally supported the proposed procedures was opposed to conducting the referendum over a 2-day period because of a concern that it required more of ES employees' time than necessary. The commenter pointed out that the recent beef referendum was accomplished in 1 day and speculated that based on voter response in the beef referendum (conducted May 10, 1988) and the number of absentee votes cast in California in that referendum in-person voting in the pork referendum could be as few as 28,500 persons nationwide. In the commenter's opinion, such a small number of in-person voters would not justify having county ES offices involved in voting and registration for 2 days. The commenter suggests that absentee voting should be urged to eliminate the need for a 2-day voting and registration period.

AMS believes that the commenter's justification for reducing the length of the 2-day referendum is speculative and is not a sufficient reason for changing the length of the proposed 2-day referendum. The conditions under which the beef referendum was conducted are sufficiently different from those under which the pork referendum will be conducted to preclude any accurate prediction on voter turnout. Beyond that, the National Pork Board and pork industry representatives recommended to the Secretary the 2-day referendum with in-person voting at county ES offices to provide sufficient opportunity for all eligible producers and importers to vote in person—the preferred method of casting ballots. The USDA's Extension Service agreed to make available its county offices and staff for the 2-day period, particularly since the referendum was being conducted during regular office hours on days the offices were normally open. While absentee balloting was provided for in the proposed rule, its purpose was not to serve as a procedure for balloting by mail or as a means of reducing the number of persons casting ballots in person at the ES county office. Rather, it was provided to assure that interested persons who are unable to vote in person would have an alternative method of casting a ballot.

Although an increase in absentee balloting might reduce the number of in-person voters, it also could increase the

administrative work load of both the State Extension Service offices and the county ES offices, which in turn could offset any time savings that might be realized by ES from a reduction in the length of the in-person voting and registration period. Additionally, a significant increase in absentee ballots would also increase the overall cost of the referendum by increasing postage costs. For these reasons, this suggestion is not adopted.

One commentator expressed concern about young children who own porcine animals being eligible to vote in the referendum but did not submit any alternatives. The definition of an eligible producer in § 1230.617 is based on the definition of a producer in the Act, which does not specify an age limit. Therefore, all persons who produce porcine animals in the United States for sale in commerce and who are subject to assessment would be considered eligible producers regardless of age. However, since producers must self-certify their eligibility pursuant to § 1230.631 and since proxy voting is not permitted except as stipulated in § 1230.627, parents and other persons are precluded from signing the registration and certification forms on behalf of their children except as provided for in § 1230.627.

One commentator believed that voters should be able to obtain absentee ballots from the State ES office in person as well as by mail and deliver the completed absentee ballots to the appropriate county ES office by mail or in person. The Department concurs with this suggestion and § 1230.631(b) has been revised accordingly. This same commentator also suggested that voters be allowed to deliver completed absentee ballots to the State ES office. Absentee ballots must be delivered to the designated county ES offices by September 1, 1988, in order to provide an effective and timely system for challenging the eligibility of voters. This requirement is necessary for the recording and posting of absentee voters' names for review during the challenge period in the county ES office and the county ASCS office as required in § 1230.632. Delivering absentee ballots to the State ES office could delay receipt of such ballots by the appropriate county ES office and prevent the required posting of all absentee voters' names by the specified dates. Accordingly, this suggestion is not being adopted.

The procedures for the conduct of a referendum to determine whether the Pork Promotion, Research Information Order should be continued are similar to

the referendum procedures contained in a March 28, 1988, final rule (53 FR 9853) under the Beef Promotion and Research Program. In developing the rule, as with other rules, AMS considered recommendations from interested persons, including in this instance, the National Pork Board. Consequently, in proposing the rule, AMS believed that the industry was familiar with the procedures. In view of the September 7 and 8, 1988, dates to conduct the referendum, it is essential that all interested persons be made aware as soon as possible of the referendum procedures as adopted and that preparation for the conduct of the referendum may be completed in a timely manner. For example, this rule requires that the combined absentee registration form and absentee ballot will be available for distribution during the period August 1, 1988, to August 26, 1988. AMS believes that this period of absentee ballot availability is essential to afford absentee voters the opportunity to obtain and complete their ballots prior to the close of the absentee ballot acceptance period. Accordingly, pursuant to 5 U.S.C. 553, it is hereby found that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register.

List of Subjects in 7 CFR Part 1230

Administrative practice and procedure, Marketing agreements, Meat and meat products, Pork and pork products.

For the reasons set forth in the preamble, Title 7 of the CFR, Part 1230 is amended as follows:

PART 1230—PORK PROMOTION, RESEARCH, AND CONSUMER INFORMATION

1. The authority citation for 7 CFR Part 1230 continues to read as follows:

Authority: 7 U.S.C. 4801-4819.

2. Add new Subpart E to read as follows:

Subpart E—Procedure for the Conduct of Referendum

Definitions

- Sec.
- 1230.601 Act.
 - 1230.602 Administrator.
 - 1230.603 Agricultural Stabilization and Conservation County Committee.
 - 1230.604 Agricultural Stabilization and Conservation Service.
 - 1230.605 Agricultural Stabilization and Conservation Service County Executive Director.
 - 1230.606 Department.
 - 1230.607 Deputy Administrator.

- Sec.
- 1230.608 Extension Service.
- 1230.609 Extension Service Agent.
- 1230.610 Imported pork and pork products.
- 1230.611 Importer.
- 1230.612 Order.
- 1230.613 Person.
- 1230.614 Porcine animal.
- 1230.615 Pork.
- 1230.616 Pork product.
- 1230.617 Producer.
- 1230.618 Referendum.
- 1230.619 Registration period.
- 1230.620 Representative period.
- 1230.621 Secretary.
- 1230.622 State.
- 1230.623 United States.
- 1230.624 Voting period.
- 1230.625 General.
- 1230.626 Supervision of referendum.
- 1230.627 Eligibility.
- 1230.628 Time and place of registration and voting.
- 1230.629 Facilities for registering and voting.
- 1230.630 Registration form and ballot.
- 1230.631 Registration and voting procedure.
- 1230.632 List of registered producers and importers.
- 1230.633 Challenge of eligibility.
- 1230.634 Receiving ballots.
- 1230.635 Canvassing ballots.
- 1230.636 ASCS county office report.
- 1230.637 ASCS State office report.
- 1230.638 Results of the referendum.
- 1230.639 Disposition of ballots and records.
- 1230.640 Instructions and forms.

Subpart E—Procedure for the Conduct of Referendum

Definitions

§ 1230.601 Act.

"Act" means the Pork Promotion, Research, and Consumer Information Act of 1985 (7 U.S.C. 4801-4819) and any amendments thereto.

§ 1230.602 Administrator.

"Administrator" means the Administrator of the Agricultural Marketing Service, or any officer or employee of the Department to whom there has heretofore been delegated or may hereafter be delegated, the authority to act in the Administrator's stead.

§ 1230.603 Agricultural Stabilization and Conservation County Committee.

"Agricultural Stabilization and Conservation County Committee," also referred to as "ASC county committee" means the group of persons within a county elected to act as the county Agricultural Stabilization and Conservation Committee.

§ 1230.604 Agricultural Stabilization and Conservation Service.

"Agricultural Stabilization and Conservation Service," also referred to as "ASCS" means the Agricultural

Stabilization and Conservation Service of the Department.

§ 1230.605 Agricultural Stabilization and Conservation Service County Executive Director.

"Agricultural Stabilization and Conservation Service County Executive Director," also referred to as "ASCS County Executive Director" means the person employed by the ASC county committee to execute the policies of the ASC county committee and be responsible for the day-to-day operation of the ASCS county office, or the person acting in such capacity.

§ 1230.606 Department.

"Department" means the United States Department of Agriculture.

§ 1230.607 Deputy Administrator.

"Deputy Administrator" means the Deputy or Acting Deputy Administrator, State and County Operations, Agriculture Stabilization and Conservation Service, U.S. Department of Agriculture.

§ 1230.608 Extension Service.

"Extension Service" also referred to as "ES" means the Extension Service of the Department.

§ 1230.609 Extension Service Agent.

"Extension Service Agent" also referred to as "ES Agent" means an employee of the Extension Service of the Department.

§ 1230.610 Imported pork and pork products.

"Imported Pork and Pork Products" means products which are imported into the United States which the Secretary determines contain a substantial amount of pork, including those products which have been assigned one or more of the tariff or customs numbers identified in regulations issued pursuant to the Order.

§ 1230.611 Importer.

"Importer" means a person who imports porcine animals, pork, or pork products into the United States.

§ 1230.612 Order.

"Order" means the Pork Promotion, Research, and Consumer Information Order.

§ 1230.613 Person.

"Person" means any individual, group of individuals, partnership, corporation, association, cooperative, or other entity.

§ 1230.614 Porcine animal.

"Porcine Animal" means a swine, that is raised—

(a) As a feeder pig, that is, a young pig sold to another person to be finished over a period of more than 1 month for slaughtering;

(b) For breeding purposes as seed stock and included in the breeding herd; and

(c) As a market hog, slaughtered by the producer or sold to be slaughtered, usually within 1 month of such transfer.

§ 1230.615 Pork.

"Pork" means the flesh of a porcine animal.

§ 1230.616 Pork product.

"Pork Product" means an edible product produced or processed in whole or in part from pork.

§ 1230.617 Producer.

"Producer" means a person who produces porcine animals in the United States for sale in commerce and who is subject to assessment.

§ 1230.618 Referendum.

"Referendum" means the referendum to be conducted by the Secretary pursuant to the Act during a period beginning not earlier than 24 months after issuance of the Order and ending not later than 30 months after the issuance of the Order whereby persons who have been producers and importers during a representative period shall be given the opportunity to vote to determine whether the continuance of the Order is favored by a majority of producers and importers voting.

§ 1230.619 Registration period.

"Registration period" means the 2-day period of September 7 and 8, 1988, for registration of producers and importers desiring to vote in a referendum. The registration period shall be the same days as the voting period.

§ 1230.620 Representative period.

"Representative period" means the period November 1, 1986, to September 6, 1988, which is established pursuant to section 1622(a) of the Act.

§ 1230.621 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the Department to whom authority has been delegated, or may hereafter be delegated, to act in the Secretary's stead.

§ 1230.622 State.

"State" means each of the 50 States.

§ 1230.623 United States.

"United States" means the 50 States and the District of Columbia.

§ 1230.624 Voting period.

"Voting period" means the 2-day period of September 7 and 8, 1988, for voting in a referendum.

Referendum

§ 1230.625 General.

(a) A referendum to determine whether eligible producers and importers favor the continuance of the Order shall be conducted in accordance with this subpart.

(b) The Order shall continue only if the Secretary determines that the Order is approved or favored by a majority of the producers and importers casting valid ballots in a referendum.

(c) The referendum shall be conducted at the county offices of the Extension Service of the Department.

(d) The Agricultural Stabilization and Conservation Service of the Department shall assist in the conduct of the referendum.

§ 1230.626 Supervision of referendum.

The Administrator (AMS) shall be responsible for conducting the referendum in accordance with this subpart.

§ 1230.627 Eligibility.

(a) *Eligible producers.* Each person who was a producer during the representative period is entitled to register and vote in the referendum. Each producer shall be entitled to cast only one ballot in the referendum.

(b) *Eligible importers.* Each person who was an importer during the representative period is entitled to register and vote in the referendum. Each importer shall be entitled to cast only one ballot in the referendum.

(c) *Proxy registration and voting.* Proxy registration and voting is not authorized except that an officer or employee of a corporate producer or corporate importer, or any guardian, administrator, executor, or trustee of a producer's or importer's estate, or an authorized representative of any eligible entity (other than an individual producer or importer) such as a corporation or partnership, may register and cast a ballot on behalf of such entity. Any individual registering to vote in the referendum on behalf of any producer or importer corporation, partnership, or other eligible entity shall certify that he or she is authorized by such entity to take such action.

(d) *Joint and group interest.* A group of individuals, such as members of a family, joint tenants, tenants in common, a partnership, owners of community property, or a corporation, engaged in the production of porcine animals as a

producer or in the importation of porcine animals, pork or pork products into the U.S. as an importer shall be entitled to only one vote; provided, however, that any member of a group may register to vote as a producer or importer if he or she is an eligible producer or importer separate from the group.

§ 1230.628 Time and place of registration and voting.

The referendum shall be held for 2 days beginning on September 7, 1988, and ending on September 8, 1988. Eligible persons shall register and vote following the procedures in § 1230.631. Except for absentee ballots, the registration and voting shall take place on September 7 and 8, 1988, at each county ES office during regular office hours.

§ 1230.629 Facilities for registering and voting.

Each county ES office shall provide:

(a) Adequate facilities and space to permit producers and importers to register and mark their ballots in secret; and,

(b) A sealed box or other suitable receptacle for registration forms and ballots which shall be kept under observation during registration and voting hours and secured at all times. Copies of the Order shall be available for review.

§ 1230.630 Registration form and ballot.

A registration form/envelope marked "PORK REFERENDUM" (Form LS-43-1) and ballot (Form LS-43) shall be used for voting in person. The information required on the registration form, which is printed on an envelope, includes name, address, phone number, and voter status (producer or importer). The registration form/envelope also contains a certification statement, referenced in § 1230.631(a)(1). The ballot requires producers and importers to check a "yes" or a "no." A similar registration form and ballot (Form LS-42) shall be used for absentee voting.

§ 1230.631 Registration and voting procedure.

(a) *Registering and voting in person.* (1) Each producer and importer desiring to vote in the referendum shall register on the days of voting at the ES office for the county in which the producer's or importer's residence is located or at the ES office serving the county in which the producer's or importer's residence is located. Producers or importers other than individuals shall register at the ES office in the county in which their headquarters office or business is located or at the ES office serving the county in which the entities'

headquarters office or business is located. Producers and importers will be required to list their names on the voter registration list (Form LS-43-2) prior to receiving a registration form and ballot. To register, each producer or importer shall complete the registration form/envelope and certify that:

(i) They or the entity they represent were producers or importers during the specified representative period; and,

(ii) If voting on behalf of an entity referred to in § 1230.627 they are authorized to do so.

(2) Each eligible producer or importer who has not voted by means of an absentee ballot may cast a ballot in person at the location and time set forth in § 1230.628. Eligible persons who enter their names on the voter registration list (Form LS-43-1) will receive a registration form/envelope (Form LS-43-1), an envelope marked "PORK BALLOT" (LS-42-2), and a ballot (Form LS-43). Voting shall be by secret ballot under the supervision of the local county ES agent or designee. The ballot shall be marked by the voter to indicate "yes" or "no." Voters shall place their marked ballots in the envelope marked "PORK BALLOT", seal it and place it in the completed and signed registration form/envelope marked "PORK REFERENDUM", seal that envelope and personally place it in a box marked "Ballot Box" or other designated receptacle.

(b) *Absentee voting.* (1) Eligible producers or importers unable to vote in person may request and obtain a combined absentee registration form and absentee ballot (Form LS-42) and two envelopes—one marked "PORK BALLOT" (Form LS-42-2) and the other marked "PORK REFERENDUM" (Form LS-42-1) by mail or in person from the State ES office of the State in which they reside if individuals, or where their headquarters office or business is located, if a corporation or other entity. To facilitate mailing of absentee ballots the "PORK REFERENDUM" envelope will be preaddressed with the address of the appropriate county ES office if:

(i) The person or other entity referred to in § 1230.627 requesting the absentee ballot includes in the address his or her county of residence or county in which the headquarters office or business is located; or,

(ii) The county in which the residence, headquarters office, or business is located can be otherwise determined.

Only one absentee registration form and absentee ballot will be provided to each eligible producer or importer. Form LS-42 must be requested in writing and will be available for distribution from State

ES offices from August 1, 1988, to August 26, 1988. The State ES office shall enter on the absentee voter request list (Form LS-42-3) the name and address of each person or entity requesting an absentee ballot and the date the Form LS-42 was mailed. A copy of the applicable absentee voter request list (Form LS-42-3) prepared by the State ES office shall be provided to the appropriate county ES agent who shall deliver it to each ASCS county office as provided for in § 1230.635 for absentee voter verification.

(2) To register, eligible producers or importers must complete and sign the registration form (Form LS-42), and certify that:

(i) They or the entity they represent were producers or importers during the specified representative period; and,

(ii) If voting on behalf of an entity referred to in § 1230.627, they are authorized to do so.

(3) A producer or importer, after completing the registration form and marking the ballot, shall remove the ballot portion of Form LS-42 and seal the completed ballot in a separate envelope marked "PORK BALLOT" and place it in a second envelope marked "PORK REFERENDUM" along with the signed registration form. Producers and importers shall print and sign their names on the envelope marked "PORK REFERENDUM" and mail or deliver it to the ES office of the county in which they reside or the ES office serving the county in which they reside. In the case of a partnership, corporation, estate, or other entity, the registration form and ballot must be mailed or delivered to the ES office in the county in which its headquarters office or business is located or the ES office serving the county in which its headquarters office or business is located.

(4) Absentee ballots must be received in the county ES office by the close of business, September 1, 1988. Absentee ballots received after that date shall be counted as invalid ballots. Upon receiving the "PORK REFERENDUM" envelope containing the registration form and ballot, the county ES agent or designee shall place it, unopened in a secure ballot box. The county ES agent or his designee shall enter the names of absentee voters on the voter registration list (Form LS-43-2).

(5) A person casting an absentee ballot which is not recorded as being received or which is received after the deadline specified in this section may vote in person at the appropriate county ES office on the days of the referendum.

§ 1230.632 List of registered producers and importers.

The voter registration list (Form LS-43-2) shall be available for inspection during the voting period on September 7 and 8, 1988, at the county ES office and on September 12, 1988, at the ASCS county office. At the ASCS county office it shall be posted during regular office hours in a conspicuous public location.

§ 1230.633 Challenge of eligibility.

(a) *Challenge period.* During the days of the referendum, the names of challenged voters may be reported to the ES county agent who will refer them to the ASCS county office. After that, the names of challenged voters shall be referred directly to the ASCS county office. A challenge of a person's eligibility to vote may be made no later than the close of business on September 12, 1988.

(b) *Who may challenge.* A person's eligibility to vote may be challenged by any person. Any such challenge must be in writing and signed by the person making the challenge.

(c) *Determination of challenges.* The ASC county committee or its representative shall make a determination concerning the eligibility of a producer or importer who has been challenged and notify challenged producers and importers as soon as practicable, but not later than 5 business days after the ending date of the voting period. If the ASC county committee or its representative is unable to determine whether a person was a producer or importer during the representative period, it may require the person to submit records such as sales documents, purchase documents, or other similar documents to prove that the person was a producer or importer during the representative period.

(d) *Challenged ballot.* The registration form/envelopes (Form LS-43-1) containing the ballots cast by producers and importers voting in person whose eligibility is challenged shall be removed from the ballot box and placed in a separate box until the challenge has been resolved. Envelopes containing absentee voter registration forms and absentee ballots (Form LS-42) of challenged absentee voters also shall be removed from the ballot box and placed in the box containing ballots of challenged producers and importers. A challenged ballot shall be determined to have been resolved if the determination of the ASC county committee or its representative is not appealed within the time allowed for appeal or there has been a determination by the ASC county committee after the appeal.

(e) *Appeal.* A person declared to be ineligible to register and vote by the ASC county committee or its representative may file an appeal at the ASCS county office within 3 business days after notification of such decision. Such person may be required to provide documentation such as sales documents or purchase documents in order to demonstrate his or her eligibility. An appeal shall be determined by the ASC county committee as soon as practicable, but in all cases not later than the 9th business day after the ending date of the referendum. The ASC county committee's determination on an appeal is final.

§ 1230.634 Receiving ballots.

A ballot shall be considered to have been received during the voting period if:

(a) It was cast in the county ES office prior to the close of business on September 8, 1988; or,

(b) An absentee ballot was received in the county ES office not later than close of business on September 1, 1988.

§ 1230.635 Canvassing ballots.

(a) *Counting the ballots.* The county ES agent or designee shall deliver: The sealed ballot box; the voter registration list (Form LS-43-2); and the absentee voter request list (Form LS-42-3) to the ASCS county office by the close of business on the first business day after the end of the voting period. ASCS county employees and the county ES agent or designee shall check the registration forms of all voters against the voter registration list (Form LS-43-2) and the absentee voter request list (Form LS-42-3) to determine properly registered voters. The ballots of producers or importers voting in person whose names are not on the voter registration list (Form LS-43-2) shall be declared invalid. Likewise, the ballots of producers or importers voting absentee, whose names are not on the absentee voter request list (Form LS-42-3) shall be declared invalid. Ballots declared invalid and all ballots of challenged voters declared ineligible shall be kept separate from the other ballots and the envelopes containing these ballots shall not be opened. The valid ballots shall be counted on September 22, 1988. ASCS county office employees shall remove the sealed "PORK BALLOT" envelopes from the registration form/envelopes or absentee ballot envelopes of all eligible voters and all challenged voters determined to be eligible. When removing the "PORK BALLOT" envelopes, steps shall be taken to ensure that the voter's name cannot be identified. After removing all "PORK

BALLOT" envelopes, ASCS county employees shall open them and count the ballots. The ballots shall be tabulated as follows:

- (1) Number of eligible producers and importers casting valid ballots,
- (2) Number of producers and importers favoring the Order,
- (3) Number of producers and importers not favoring the Order,
- (4) The number of challenged ballots,
- (5) The number of challenged ballots deemed ineligible,
- (6) Number of invalid ballots, and
- (7) The number of spoiled ballots.

(b) *Invalid ballots.* Ballots shall be declared invalid if a producer or importer voting in person has failed to sign the voter registration list (Form LS-43-2), or an absentee voter's name is not on the absentee voter request list (Form LS-42-3), or the registration form or ballot was incomplete or incorrectly completed.

(c) *Spoiled ballots.* Ballots shall be considered as spoiled ballots when they are mutilated or marked in such a way that it cannot be determined whether it is a "yes" or a "no" vote. Spoiled ballots shall not be considered as approving or disapproving the Order, or as a ballot cast in the referendum.

(d) *Confidentiality.* All ballots shall be confidential and the contents of the ballots shall not be divulged except as the Secretary may direct. The public may witness the opening of the ballot box and tabulation of the votes but may not interfere with the process.

§ 1230.636 ASCS county office report.

The ASCS county office shall notify promptly the ASCS State office of the results of the referendum. Each ASCS county office shall transmit the results of the referendum in its county to the ASCS State office. Such report shall include the information listed in § 1230.635. The results of the referendum in each county may be made available to the public immediately after the ballots have been counted and any necessary verification of accuracy has been completed. A copy of a report of those results shall then be posted for 30 days in the ASCS county office in a conspicuous place accessible to the public, and a copy shall be kept on file in the ASCS county office for a period of at least 12 months.

§ 1230.637 ASCS State office report.

Each ASCS State office shall promptly transmit to the Deputy Administrator a written summary of the results of the referendum received from all the ASCS county offices within the State. The summary shall include the information

on the referendum results contained in the reports from all county offices within each State and be certified by the ASCS State executive director. The ASCS State office shall maintain a copy of the summary where it shall be available for public inspection for a period of not less than 12 months.

§ 1230.638 Results of the referendum.

(a) The Deputy Administrator shall promptly submit to the Administrator the results of the referendum. The Administrator shall promptly prepare and submit to the Secretary a report of the results of the referendum. The results of the referendum shall be issued by the Department in an official press release and published in the *Federal Register*. State reports, and related papers shall be available for public inspection in the office of the Marketing Programs and Procurement Branch, Livestock and Seed Division, Agricultural Marketing Service, USDA, Room 2610 South Agriculture Building, 14th and Independence Avenue SW., Washington, DC.

(b) If the Secretary deems it necessary, the report of any State or county shall be reexamined and checked by such persons that may be designated by the Deputy Administrator or the Secretary.

§ 1230.639 Disposition of ballots and records.

Each ASCS county executive director shall place in sealed containers marked with the identification of the referendum, the voter registration list, absentee voter request list, voted ballots, challenged registration forms/envelopes, challenged absentee voter registration forms, challenged ballots found to be ineligible, invalid ballots, spoiled ballots, and county summaries. Such records shall be placed under lock in a safe place under the custody of the ASCS county executive director for a period of not less than 12 months after the referendum. If no notice to the contrary is received from the Deputy Administrator by the end of such time, the records shall be destroyed.

§ 1230.640 Instructions and forms.

The Administrator may prescribe additional instructions and forms not inconsistent with the provisions of this subpart to govern the conduct of the referendum.

Done at Washington, DC on July 22, 1988.

J. Patrick Boyle,
Administrator.

[FR Doc. 88-16863 Filed 7-26-88; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Parts 207, 220, 221 and 224

Regulations G, T, U and X; Securities Credit Transactions; List of Marginable OTC Stocks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; determination of applicability of regulations.

SUMMARY: The List of Marginable OTC Stocks is comprised of stocks traded over-the-counter (OTC) that have been determined by the Board of Governors of the Federal Reserve System to be subject to the margin requirements under certain Federal Reserve regulations. The List is published four times a year by the Board as a guide for lenders subject to the regulations and the general public. This document sets forth additions to or deletions from the previously published List effective May 9, 1988 and will serve to give notice to the public about the changed status of certain stocks.

EFFECTIVE DATE: August 8, 1988.

FOR FURTHER INFORMATION CONTACT: Peggy Wolfrum, Securities Regulation Analyst, Division of Banking Supervision and Regulation, (202) 452-2781. For the hearing impaired only, Earnestine Hill or Dorothea Thompson, Telecommunications Device for the Deaf (TDD) (202) 452-3544, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Set forth below are stocks representing additions to or deletions from the Board's List of Marginable OTC Stocks. This supersedes the last List which was effective May 9, 1988. Additions and deletions for that List were published at 53 FR 15195, April 28, 1988. A copy of the complete List incorporating these additions and deletions is available from the Federal Reserve Banks.

The List of Marginable OTC Stocks includes those stocks that meet the criteria specified by the Board of Governors in Regulations G, T, U and X (12 CFR Parts 207, 220, 221 and 224, respectively). These stocks have the degree of national investor interest, the depth and breadth of market, and the availability of information respecting the stock and its issuer to warrant regulation in the same fashion as exchange-traded securities. The List also includes any stock designated under an SEC rule as qualified for trading in the national market system (NMS Security). Additional OTC stocks may be designated as NMS securities in the interim between the Board's

quarterly publications. They will become automatically marginable at broker-dealers upon the effective date of their NMS designation. The names of these stocks are available at the Board and the Securities and Exchange Commission and will be incorporated into the Board's next quarterly List.

In addition to the deletions listed below, Student Loan Marketing Association's (SLMA) common stock and warrants expiring 08-01-91 are being removed from the List because they are exempted securities (see 20 U.S.C. 1087.1). While these securities meet the requirements for inclusion on the List, their exempt status entitles lenders to extend good faith loan value on them whether or not they appear on the List.

The requirements of 5 U.S.C. 553 with respect to notice and public participation were not followed in connection with the issuance of this amendment due to the objective character of the criteria for inclusion and continued inclusion on the List specified in 12 CFR 207.6 (a) and (b), 220.17(a) and (b), and 221.7 (a) and (b). No additional useful information would be gained by public participation. The full requirements of 5 U.S.C. 553 with respect to deferred effective date have not been followed in connection with the issuance of this amendment because the Board finds that it is in the public interest to facilitate investment and credit decisions based in whole or in part upon the composition of this List as soon as possible. The Board has responded to a request by the public and allowed a two-week delay before the List is effective.

List of Subjects

12 CFR Part 207

Banks, Banking, Credit, Federal Reserve System, Margin, Margin requirements, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 220

Banks, Banking, Brokers credit, Federal Reserve System, Margin, Margin requirements, Investments, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 221

Banks, Banking, Credit, Federal Reserve System, Margin, Margin requirements, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.