

the provisions of § 701.51 regarding the maximum ECP cost-share allowance.

Second, funds for the ACP, the ECP, and the FIP are limited. This rule would also revise the regulations to provide uniformly for all three programs that a program applicant will not be considered to have incurred reimbursable costs, for program purposes, to the extent that the applicant has, or will, receive a contribution from third-parties who are not themselves eligible and approved for program assistance for the project. Local State ASC committee would be permitted to grant an exception to this "third-party" rule where the committee determines, acting in accordance with instructions from DASCO, that an exception is necessary to accomplish program goals. In no case, however, could the assistance received by the applicant exceed the net contribution that the applicant has otherwise made to the project (that is, the contribution made by the applicant independent of the actual or pending contribution of third-parties). This limitation is in addition to other limitations on payments that apply under part 701.

List of Subjects in 7 CFR Part 701

Disaster assistance, Forests and forest products, Grant programs, Natural resources, Rural areas, Soil conservation, Water resources, Wildlife.

Proposed Rule

Accordingly, it is proposed that the regulations at 7 CFR part 701 be revised as follows:

PART 701—CONSERVATION AND ENVIRONMENTAL PROGRAMS

1. The authority citation for part 701 shall be revised to read as follows:

Authority: 16 U.S.C. 590d, 590g-590o, 590p(a), 590q, 1501-1510, 1806, 2101-2111, 2201-2205; 48 U.S.C. 1409d(c).

2. Section 701.51 shall be revised to read as follows:

§ 701.51 Extent of cost-sharing.

(a) The maximum payment under this subpart per person, per disaster, is limited to \$200,000, including the amount of any payment received by such person as the result of a disaster under a pooling agreement.

(b) The cost-share payments which may be made by ASCS for a practice under the program shall, subject to the maximum payment amount specified in paragraph (a) of this section and any other limitation as may apply, be further limited to the level of cost-share assistance established by the county

committee not to exceed the following amounts:

- (1) 64 percent of the first \$62,500 of eligible reimbursable costs; plus
- (2) 40 percent of the second \$62,500 of eligible reimbursable costs; plus
- (3) 20 percent of the remaining eligible reimbursable costs up to such amount as would produce a cost-share not in excess of the limitation in paragraph (a) of this section.

3. Section 701.70 is revised to read as follows:

§ 701.70 Practices carried out with aid from ineligible persons.

(a) Except as provided in paragraph (b) of this section, financial assistance which is made available, or will be made available, to a program participant from a person ineligible for cost-share assistance under this part for the practice, including aid from a State or Federal agency other than assistance made available under this part, shall be deducted from the program participant's total costs incurred for the practice for purposes of determining the applicant's eligible reimbursable costs under this part.

(b) Third party contributions need not be deducted under paragraph (a) of this section where it is determined by the State ASC Committee, in accordance with instructions of the Deputy Administrator, State and County Operations (DASCO), ASCS, that an exception would be in furtherance of program objectives. However, the total cost-share paid may not, in any case, exceed the net contribution (exclusive of any contribution by ineligible persons) otherwise made by the applicant to the cost of carrying out the practice.

Signed at Washington, DC, March 22, 1990.

John A. Stevenson,

Administrator, Agricultural Stabilization and Conservation Service.

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Animal and Plant Health Inspection Service

9 CFR Part 11

[Docket No. 89-222]

Horse Protection Inspection Guidelines

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the Horse Protection regulations to expand and clarify the procedures to be followed by Designated Qualified

Persons in conducting inspections at horse shows, exhibitions, and sales or auctions. We believe these amendments are necessary to better protect horses under the Horse Protection Act.

DATES: Consideration will be given only to comments received on or before April 27, 1990.

ADDRESSES: To help ensure that your written comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 89-222. Comments received may be inspected at USDA, Room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. R.L. Crawford, Director, Animal Care Staff, Regulatory Enforcement and Animal Care, APHIS, USDA, Room 269, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. (301) 436-8790.

SUPPLEMENTARY INFORMATION:

Background

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

The requirements for DQP licensing are set forth in § 11.7 of the current regulations. As part of the licensing process, prospective DQP's are trained in procedures we have established for examining a horse prior to exhibition. The inspection procedures include both examination by palpation of the horse's pasterns and visual examination of the horse. Representatives of both the horse industry and animal welfare organizations have suggested that the

current guidelines for preshow DQP examination of a horse are not detailed enough to ensure a uniform and adequate inspection of all horses examined by DQP's. In response to these concerns, we published an advance notice of proposed rulemaking on May 12, 1989 [54 FR 20605-20606, Docket No. 89-057], in which we solicited comments on how best to clarify and make more specific the DQP inspection procedures, so as to detect more effectively horses that are sore. We received seven comments in response to our notice, and have reviewed and analyzed each of the comments. In this document, we are proposing to add to the regulations a new section, and designate it § 11.21, regarding inspection procedures to be carried out by DQP's, as discussed below. Current §§ 11.21 and 11.22 would be redesignated as §§ 11.22 and 11.23 respectively.

Preshow Observation of Horse's Movement

We are proposing to specify procedures for the DQP to follow in conducting preshow inspections. We would specify that the DQP shall direct the custodian of the horse to walk and/or turn the horse in a manner that allows the DQP to determine whether the horse exhibits signs of soreness. While watching the horse move, the DQP would determine whether the horse moves in a free and easy manner and whether it is free of any signs of soreness, such as unusual posture, distressed expression, or a reluctance to move.

Other Preshow Inspection Techniques

Under this proposed rule, the DQP would be required to follow certain specified procedures in physically examining a horse. We would specify that the DQP shall digitally palpate the front limbs of the horse, with particular emphasis on the pasterns. The DQP would be required to examine the posterior surface of the pastern by picking up the foot and examining the posterior (flexor) surface. The DQP would be further required to apply digital pressure to the pocket (sulcus), including the bulbs of the heel, and continue the palpation to the medial and lateral surfaces of the pastern, being careful to observe for responses to pain in the horse. The DQP would also be required to extend the foot and leg of the horse, while continuing to hold onto the pastern, to examine the front (extensor) surfaces, including the coronary band. We are also providing that the DQP may examine the rear limbs of the horse in

like manner when he deems it necessary.

In this proposed rule, we are also specifying that the DQP examine the horse to ensure that those pads, other devices, and substances prohibited by § 11.2 of the regulations are not used, that the DQP ensure that the restrictions on workouts and performances specified in § 11.2(d) of the regulations are complied with, and that the "scar rule" provisions in § 11.3 of the regulations are not violated.

We are also providing in this proposed rule that the DQP may carry out additional inspection procedures as he deems necessary to determine whether a horse is sore.

Inspection of Horses in Unloading and Barn Areas

We believe that inspection of horses in the unloading and barn areas of show or sale grounds would enable a DQP to detect soreness in horses and other violations of the regulations, such as the use of prohibited substances. We believe that such inspection should include observing the horses for signs of soreness, such as unusual posture, distressed expression, or reluctance to move. In order to establish effective procedures for such inspections, we are proposing to require that horse industry organizations or associations that are seeking, or that have been granted, certification of a DQP program submit to the Department for approval procedures for conducting such inspections. Those associations and organizations seeking DQP program certification would be required to submit the procedures for approval along with the other information required for Department approval under current § 11.7(b). Those organizations or associations with DQP programs that have already been certified would have 30 days from the publication date of the document making final this proposal to receive Department approval of such procedures.

Organizational Sanctions

We are proposing to provide in § 11.7 of the regulations that those DQP's who fail to follow the procedures that would be established by this proposed rule would be subject to sanctions by the organization that has licensed the DQP. Licensing organizations that fail to impose such sanctions when appropriate would be subject to decertification by the Animal and Plant Health Inspection Service.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this proposed rule in conformance with Executive Order 12291 and Departmental Regulation 1512-1, and have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule would have an effect on the economy of less than \$100 million; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would 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.

The changes to the regulations in this proposed rule would make explicit the procedures Designated Qualified Persons (DQP's) must follow when inspecting horses in accord with the Horse Protection Act regulations. The proposed changes would help ensure that the procedures that DQP's are already trained in are uniformly followed. In addition to specifying procedures for physical examination of a horse, the proposed regulations would direct DQP's to observe the horse as it is walked and turned. Additionally, the proposed regulations would require that DQP programs include procedures for inspection of horses in unloading and barn areas. We expect that implementation of these regulations would cause no change in the number of shows inspected by DQP's. We do not believe that the cost to show management for a DQP's services would increase as a result of these proposed changes.

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

Paperwork Reduction Act

In accordance with section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), we have submitted the information collection provisions that are included in this proposed rule for approval to the Office of Management and Budget (OMB). Please send written comments concerning any information collection to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Submit a duplicate copy of

your comments to Regulatory Analysis and Development, APHIS, USDA, Room 366, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

List of Subjects in 9 CFR Part 11

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

Accordingly, 9 CFR part 11 would be amended as follows:

PART 11—HORSE PROTECTION REGULATIONS

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

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

2. In § 11.7, paragraphs (b)(6), (7), and (8) would be redesignated as paragraphs (b)(7), (8), and (9), respectively, and a new paragraph (b)(6) would be added to read as follows:

§ 11.7 Certification and licensing of designated qualified persons (DQP's).

(b) * * *

(6) Procedures for inspection of horses in the unloading and barn areas of show or sale grounds, prior to such horses being shown.

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§ 11.7 [Amended]

3. In § 11.7, paragraph (f)(1), the first sentence would be revised to read as follows: "Each horse industry organization or association having a DQP program certified by the Department shall issue a written warning to any DQP whom it has licensed who violates the rules, regulations, by-laws, or standards of conduct promulgated by such horse industry organization or association pursuant to this section, who fails to follow the procedures set forth in § 11.21 of this part, or who otherwise carries out his duties and responsibilities in a less than satisfactory manner, and shall cancel the license of any DQP after a second violation."

4. In § 11.7, paragraph (g), the first sentence would be revised to read as follows: "Any horse industry organization or association having a Department certified DQP program that has not received Department approval of the inspection procedures provided for in paragraph (b)(6) of this section, or that otherwise fails to comply with the requirements contained in this section, may have such certification of its DQP program revoked, unless, upon written notification from the Department of such failure to comply with the requirements in this section, such organization or association takes immediate action to rectify such failure and takes

appropriate steps to prevent a recurrence of such noncompliance within the time period specified in the Department notification, or otherwise adequately explains such failure to comply."

§ 11.20 [Amended]

5. In § 11.20, paragraph (b)(2), the third sentence would be revised to read as follows: "Such physical examination shall be conducted in accord with the inspection procedures provided for in § 11.21 of this part."

6. Sections 11.21 and 11.22 would be redesignated as §§ 11.22 and 11.23 respectively, and a new § 11.21 would be added to read as follows:

§ 11.21 Inspection procedures for designated qualified persons (DQP's).

(a) Preshow inspection. (1) During the preshow inspection, the DQP shall direct the custodian of the horse to walk and/or turn the horse in a manner that allows the DQP to determine whether the horse exhibits signs of soreness. The DQP shall determine whether the horse moves in a free and easy manner and is free of any signs of soreness.

(2) The DQP shall digitally palpate the front limbs of the horse, with particular emphasis on the pasterns. The DQP shall examine the posterior surface of the pastern by picking up the foot and examining the posterior (flexor) surface. The DQP shall apply digital pressure to the pocket (sulcus), including the bulbs of the heel, and continue the palpation to the medial and lateral surfaces of the pastern, being careful to observe for responses to pain in the horse. While continuing to hold onto the pastern, the DQP shall extend the foot and leg of the horse to examine the front (extensor) surfaces, including the coronary band. The DQP may examine the rear limbs of the horse in like manner when he deems it necessary. While carrying out the procedures set forth in this paragraph, the DQP shall also inspect the horse to determine whether the provisions of § 11.3 of this part are being complied with.

(3) The DQP shall observe and inspect the horse to determine whether the provisions of § 11.2 of this part are being complied with.

(b) The DQP may carry out additional inspection procedures as he deems necessary to determine whether the horse is sore.

(c) The DQP shall assess appropriate penalties for violations, as set forth in the rule book of the certified program under which the DQP is licensed, and shall report all violations, in accord with § 11.20(b)(3) of this part.

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§ 11.24 [Amended]

7. In § 11.24, paragraph (a), first sentence, the words "§ 11.21(a)(1) through § 11.21(a)(6)" would be removed, and the words "§ 11.22(a)(1) through 11.22(a)(6)" would be added in their place.

Done in Washington, DC, this 23rd day of March 1990.

James W. Glosser,
Administrator, Animal and Plant Health
Inspection Service.

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Rel. No. 34-27934; File No. S7-5-90]

Exemption of Securities Underlying Market Baskets From Registration Under Section 12(a)

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing new Rule 12a-7 under the Securities Exchange Act of 1934 ("Act"). The Rule would exempt from the registration provisions of section 12(a) of the Act securities that are traded as part of a market basket transaction provided that each component security otherwise is a national market system security and is listed and registered on another national securities exchange or quoted on the National Association of Securities Dealers Automated Quotation System. In addition, to be eligible for the exemption the stocks must be part of a standardized market basket containing at least 100 securities. The exemption would be applicable only to facilitate the trading of securities as part of a standardized market basket, including any delivery and settlement requirements, that has been approved for exchange trading by the Commission.

DATES: Comments must be received on or before April 27, 1990.

ADDRESSES: Persons wishing to submit written comments should file 3 copies thereof with Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549. Reference should be made to File No. S7-5-90. Copies of the submission and all written comments will be available for public inspection and copying at the Commission's Public Reference Room,