file comments through December 30, 1994. No comments were received.

While this action will impose some additional costs on handlers and producers, the costs on handlers are in the form of uniform assessments, and those on producers will be shared equally by all equity holders in the 1994–95 reserve pool for Natural (sun-dried) Seedless raisins. However, these costs will be offset by the benefits derived by the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendations submitted by the Committee 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 action until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. The 1994–95 crop year began on August 1, 1994. The marketing order requires that the rate of assessment for the crop year apply to all assessable raisins handled during the crop year. In addition, handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and published in the **Federal Register** as an interim final rule.

List of Subjects in 7 CFR Part 989

Grapes, Marketing agreements, Raisins, Reporting and recordkeeping requirements.

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR part 989 which was published at 59 FR 54379 on October 31, 1994, is adopted as a final rule without change.

Dated: January 18, 1995.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95–1749 Filed 1–23–95; 8:45 am]

BILLING CODE 3410–02–P

Animal and Plant Health Inspection Service

9 CFR Part 91

[Docket No. 93–031–2]

Inspection of Animals for Export to Mexico or Canada

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning the inspection and handling of livestock for exportation by requiring that all animals intended for exportation other than by land (that is to say, by air or sea) to Mexico or Canada receive a final inspection by an Animal and Plant Health Inspection Service veterinarian at an export inspection facility at a designated port of embarkation. We have determined this action is necessary to help ensure that only healthy animals are exported from the United States.

EFFECTIVE DATE: February 23, 1995.

FOR FURTHER INFORMATION CONTACT: Dr. Michael David, Senior Staff Veterinarian, Import-Export Animals Staff, National Center for Import-Export, Veterinary Services, APHIS, USDA, P.O. Drawer 810, Riverdale, MD 20738. The telephone number for the agency contact will change when agency offices in Hyattsville, MD, move to Riverdale, MD, in February. Telephone: (301) 436–7511 (Hyattsville); (301) 734–7511 (Riverdale).

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 91, ''Inspection and Handling of Livestock for Exportation'' (referred to below as the regulations), prescribe conditions for exporting animals from the United States. Section 91.3(a) requires, among other things, that all animals intended for exportation to Mexico or Canada, except cattle from Mexico imported into the United States in bond for temporary feeding and return to Mexico, be accompanied from the State of origin of the export movement to the border of the United States by an origin health certificate. Section 91.3(b) requires, among other things, that all animals in export shipments, except animals intended for export to Mexico or Canada, be inspected, tested, or treated as prescribed in the regulations before the movement of the export shipment to the export inspection facility. Section 91.14(a) requires that all animals, except animals being exported to Mexico or Canada, be exported through designated ports of embarkation with export inspection facilities that meet the standards for export inspection facilities specified in § 91.14(c). Section 91.15(a) requires that all animals offered for exportation to foreign countries, except Mexico or Canada, be inspected by an Animal and Plant Health Inspection Service (APHIS) veterinarian at either: (1) An export inspection facility at a port designated in § 91.14(a); or (2) in special cases, at a port or inspection facility designated by the Administrator under § 91.14(b).

On April 26, 1994, we published in the **Federal Register** (59 FR 21675–21676, Docket No. 93–031–1) a proposal to amend the regulations by requiring that all animals intended for exportation other than by land (that is to say, by air or sea) to Mexico or Canada receive a final inspection by an APHIS veterinarian at an export inspection facility at a designated port of embarkation to help ensure that only healthy animals are exported from the United States.

We solicited comments concerning our proposal for 60 days ending June 27, 1994. We received three comments by that date. They were from one producer and two horse industry organizations. We carefully considered these comments, which are discussed below by topic.

Basis for Change

One commenter stated that there is no evidence that unhealthy horses are being exported to Canada or Mexico, or that Canadian or Mexican officials are concerned about the problem. The commenter stated further that if these countries are concerned, they and not APHIS need to address the problem. We have made no change in response to this comment. It is the responsibility of the Secretary of Agriculture to ensure that only healthy horses and other livestock are exported from the United States (21 U.S.C. 105, 112, 113, 612 and 614).

One commenter stated that the present regulations, which require the animals to be accompanied from the State of origin to the port of embarkation by an origin health certificate, are sufficient. We have made no change based on this comment. We agree that the present regulations are sufficient for animals traveling by land to Canada or Mexico because of the follow-up inspection at the border. However, animals identified on the origin health certificate may have been inspected at any time within 30 days prior to the date of the export movement. We believe that a final inspection at the port of embarkation is necessary for animals shipped to Canada or Mexico by air or

sea to ensure that the animals are healthy.

One commenter expressed concern about the effect of this rulemaking on the Breeders' Cup, an organization which conducts an annual international championship event. The commenter said that this event will be held in Canada in 1996, and that the rule would create a hardship for individual horsemen and airline carriers by requiring them to coordinate inspections for horses leaving racing facilities across the United States, and by requiring the horses to leave from only USDA designated ports of embarkation. We have made no changes based on this comment. We have already explained our reason for requiring the horses to be inspected. As for requiring the inspection to take place at USDA designated ports of embarkation, there are approximately 30 designated ports of embarkation in the United States for the exportation of animals. Furthermore, our regulations provide that, in special cases, other ports may be designated by the Administrator, with the concurrence of the Director of Customs, when the exporter can show to the satisfaction of the Administrator that the animals to be exported would suffer undue hardship if required to move to one of the designated ports. These provisions have proved successful for the movement of animals, including horses, to other foreign countries, and we are confident that they will prove sufficient for the movement of animals by air or sea to Canada or Mexico.

One commenter stated that the proposed amendments would create an economic hardship on horse owners, because they would have to pay an hourly user fee, for a minimum of 5 hours, plus applicable reimbursable overtime expenses, while the horses are held at the port of embarkation for the final inspection. The commenter stated that these costs would be proportionally greater for horse owners than for owners of other animals, since horses are shipped in smaller volumes than are other animals. We have made no changes based on this comment. We do not believe that horse owners will be disproportionately affected by this rulemaking. In accordance with 9 CFR 130.21, a user fee of $50.00 per hour is charged for inspection and supervision services provided by APHIS personnel for export animals. The total user fee for these services is based on the amount of time it takes APHIS personnel to actually inspect the horses or other animals, not on the 5-hour holding period specified in § 91.15(a). Smaller shipments will normally take less time, and incur a lower user fee, than larger shipments. Therefore, based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposal as a final rule.

Executive Order 12866 and Regulatory Flexibility Act

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

This rule will require a final inspection at an export inspection facility at a designated port of embarkation for all animals intended for export to Canada and Mexico by air or sea. Animals intended for export to Mexico and Canada by air or sea will first be inspected by an APHIS representative or an accredited veterinarian in the State of origin. The APHIS representative or an accredited veterinarian will issue an origin health certificate, which an authorized APHIS veterinarian in the State of origin will endorse. At the port of embarkation, the animals will receive a final inspection by an APHIS veterinarian before they will be allowed to leave the United States.

The exporter will be charged a user fee ($50.00 an hour plus reimbursable overtime when applicable) for the final inspection as provided in 9 CFR part 130. This inspection could require 6 to 8 hours of work for one or two veterinarians. The total cost of inspection for an air shipment of gilts or heifers from Miami ranges from about $200 to $600 a shipment. The total cost of inspection for a sea shipment of heifers from Hawaii ranges from $1,000 to $2,000 a shipment.

These costs are very small compared to the value of the animals being shipped. For example, gilts (young, female pigs or immature sows) may be valued at $500 to $1,000 or more a head, depending upon breed. Heifers (young cows that have not borne calves) may be worth $2,000 a head. One air shipment may contain as many as 240 gilts or 80 heifers. One sea shipment from Hawaii may contain 1,000 to 2,000 heifers.

Relatively few exporters of horses will be affected by this rule. Our records indicate that during fiscal year 1994, exporters moved fewer than 10 shipments of horses (totalling less than 20 horses) to Mexico by air (there were no shipments of horses to Mexico by sea) and no shipments of horses by air or sea to Canada. By far, most shipments are by land, with the number of horses exported to Mexico ranging from 1,000 to 2,500 annually, and to Canada ranging from 50,000 to 60,000 annually.

Generally, the entities that will be affected by this rule are not small (defined as having 100 or fewer employees). They are large companies, often with worldwide operations that handle large volumes of traded animals. For example, about 14,000 swine were exported by air from Miami last year, all by a few large companies. There are now only two exporting companies operating out of Hawaii, one of which is a ''small'' entity.

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.

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.)

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB), and there are no new requirements. The assigned OMB control number is 0579–0020.

List of Subjects in 9 CFR Part 91

Animal diseases, Animal welfare, Exports, Livestock, Reporting and recordkeeping requirements, Transportation.

Accordingly, 9 CFR part 91 is amended as follows:

PART 91—INSPECTION AND HANDLING OF LIVESTOCK FOR EXPORTATION

1. The authority citation for part 91 continues to read as follows:

Authority: 21 U.S.C. 105, 112, 113, 114a, 120, 121, 134b, 134f, 136, 136a, 612, 613, 614, 618, 46 U.S.C. 466a, 466b, 49 U.S.C. 1509(d); 7 CFR 2.17, 2.51, and 371.2(d).

§ 91.3 [Amended]

2. Section 91.3 is amended as follows:

a. In paragraph (a), in the first and second sentences, the words ''by land'' are added immediately before the phrase ''to Mexico or Canada''.

b. In paragraph (b), in the first and second sentences, the words ''by land'' are added immediately before the phrase ''to Mexico or Canada''.

c. At the end of the section, in the parenthetical statement, ''0579–0069'' is removed and ''0579–0020'' is added in its place.

§ 91.5 [Amended]

3. In § 91.5, at the end of the section, in the parenthetical statement, ''0579-0069'' is removed and ''0579-0020'' is added in its place.

§ 91.6 [Amended]

4. In § 91.6, at the end of the section, in the parenthetical statement, ''0579–0069'' is removed and ''0579–0020'' is added in its place.

§ 91.14 [Amended]

5. In § 91.14, paragraph (a), introductory text, in the second sentence, the words ''by land'' are added immediately before the phrase ''to Mexico or Canada''.

§ 91.15 [Amended]

6. In § 91.15, in paragraph (a), the words ''by land to'' are added immediately before the phrase ''Mexico or Canada''.

Done in Washington, DC, this 18th day of January 1995.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 95–1740 Filed 1–23–95; 8:45 am]

BILLING CODE 3410–34–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1700

Requirements for Child-Resistant Packaging; Mouthwash Packages Containing 3 Grams or More of Ethanol

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: Under the Poison Prevention Packaging Act of 1970, the Commission is issuing a rule to require child-resistant packaging for mouthwashes with 3 grams or more of absolute ethanol per package. The Commission has determined that child-resistant packaging is necessary to protect children under 5 years of age from serious personal injury and serious illness resulting from ingesting mouthwash. The rule exempts mouthwash products with nonremovable pump dispensers that contain at least 7% on a weight-to-weight basis of mint or cinnamon flavoring oils, that dispense no more than 0.03 grams of absolute ethanol per pump actuation, and that contain less than 15 grams of ethanol in a single package available to the consumer.

DATES: The effective date of the rule is July 24, 1995, and the rule shall apply to products packaged on or after that date.

FOR FURTHER INFORMATION CONTACT: Michael Bogumill, Division of Regulatory Management, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0400 ext. 1368.

SUPPLEMENTARY INFORMATION:

A. Background

1. Relevant Statutes and Regulations

The Poison Prevention Packaging Act of 1970 (the ''PPPA''), 15 U.S.C. 1471–1476, authorizes the Commission to establish standards for the ''special packaging'' of any household substance if (1) the degree or nature of the hazard to children in the availability of such substance, by reason of its packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substance and (2) the special packaging is technically feasible, practicable, and appropriate for such substance. Special packaging, also referred to as ''child-resistant packaging,'' is defined as packaging that is (1) designed or constructed to be significantly difficult for children under 5 years of age to open or obtain a toxic or harmful amount of the substance contained therein within a reasonable time and (2) not difficult for normal adults to use properly. (It does not mean, however, packaging which all such children cannot open, or obtain a toxic or harmful amount from, within a reasonable time.)

Under the PPPA, standards have been established for special packaging (16 CFR 1700.15), as has a test procedure for evaluating its effectiveness (16 CFR 1700.20). Regulations requiring special packaging for a number of household products are published at 16 CFR 1700.14. The statutory findings that the Commission must make in order to issue a standard requiring child-resistant (''CR'') packaging (''CRP'') for a product are discussed below in Section D of this notice.

The PPPA allows the Commission to require CRP for household substances, which include (among other specified categories) foods, drugs, or cosmetics, as these terms are defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321). 15 U.S.C. 1471(2)(B). Mouthwashes are either drugs, if they make medical claims, or cosmetics.

Section 4(a) of the PPPA, 15 U.S.C. 1473(a), allows the manufacturer or packer to package a nonprescription product subject to special packaging standards in one size of non-CRP only if (1) the manufacturer (or packer) also supplies the substance in CRP and (2) the non-CRP bears conspicuous labeling stating: ''This package for households without young children.'' 15 U.S.C. 1473(a). If the package is too small to accommodate this label statement, the package may bear a label stating: ''Package not child-resistant.'' 16 CFR 1700.5(b). The right of the manufacturer or packer to market a single size of the product in noncomplying packaging under these conditions is termed the ''single-size exemption.''

The Commission may restrict the right to market a single size in noncomplying packaging if the Commission finds that the substance is not also being supplied in popular size packages that comply with the standard. 15 U.S.C. 1473(c). In such cases, the Commission may, after giving the manufacturer or packer an opportunity to comply with the purposes of the PPPA and an opportunity for a hearing, order that the substance be packaged exclusively in CRP. To issue such an order, the Commission must find that the exclusive use of special packaging is necessary to accomplish the purposes of the PPPA.

2. The Mouthwash Petition

On March 2, 1993, the Commission was petitioned to require CRP for mouthwashes containing more than 5% ethanol. The petition was submitted by the American Academy of Pediatrics, the American Association of Poison Control Centers, the Center for Science in the Public Interest, and 28 states, Guam, and the Northern Mariana Islands. For the purposes of this proceeding and the final rule, the term ''mouthwash'' includes liquid products that are variously called mouthwashes, mouthrinses, oral antiseptics, gargles, fluoride rinses, anti-plaque rinses, and breath fresheners. It does not include throat sprays or aerosol breath fresheners.

The petitioners stated several reasons for their request: (1) Many mouthwashes