

made available through the Internet by the Office of the Federal Register and USDA. A 60-day comment period ending October 22, 2001, was provided to allow interested persons to respond to the proposal. No comments were received.

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

After consideration of all relevant matter presented, including the information and recommendation submitted by the Board and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because: (1) Handlers are already shipping hazelnuts from the 2001–2002 crop; (2) the Board would like to begin receiving this report as soon as possible to have better information on the total supply of hazelnuts within Oregon and Washington; (3) handlers are aware of this rule which was recommended at a public meeting; and (4) a 60-day comment period was provided in the proposed rule; no comments were received.

#### List of Subjects in 7 CFR Part 982

Filberts, Hazelnuts, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 982 is amended as follows:

#### PART 982—HAZELNUTS GROWN IN OREGON AND WASHINGTON

1. The authority citation for 7 CFR part 982 continues to read as follows:

**Authority:** 7 U.S.C. 601–674.

2. A new § 982.467 is added to read as follows:

#### § 982.467 Report of receipts and dispositions of hazelnuts grown outside the United States.

Each handler who receives hazelnuts grown outside the United States shall report to the Board monthly on *F/H Form 1* if the receipt and disposition of such hazelnuts. All reports submitted shall include transactions through the end of each month, or other reporting

periods established by the Board, and are due in the Board office on the tenth day following the end of the reporting period. The report shall include the quantity of such hazelnuts received, the country of origin for such hazelnuts, inspection certificate number, whether such hazelnuts are inshell or kernels, the disposition outlet, and shipment date of such hazelnuts. With each report, the handler shall submit copies of the applicable inspection certificates.

Dated: January 31, 2002.

**A. J. Yates,**

*Administrator, Agricultural Marketing Service.*

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**BILLING CODE 3410–02–P**

## FEDERAL ELECTION COMMISSION

### 11 CFR Part 106

[Notice 2002–1]

#### Interpretation of Allocation of Candidate Travel Expenses

**AGENCY:** Federal Election Commission.

**ACTION:** Interpretation.

**SUMMARY:** This notice expresses the view of the Commission that the travel allocation and reporting requirements of 11 CFR 106.3(b) are not applicable to the extent that a candidate pays for certain travel expenses using funds authorized and appropriated by the Federal Government.

**DATES:** February 6, 2002.

**FOR FURTHER INFORMATION CONTACT:** Tina H. VanBrakle, Director, Congressional Affairs 999 E Street, NW., Washington, DC 20463, (202) 694–1006 or (800) 424–9530.

#### SUPPLEMENTARY INFORMATION:

Contributions and expenditures made for the purpose of influencing Federal elections are subject to various prohibitions and limitations under the Federal Election Campaign Act, 2 U.S.C. 431 *et seq.*, as amended [“FECA” or “the Act”]. These prohibitions and limitations apply to a contribution or expenditure by a “person,” as defined by 2 U.S.C. 431(11) and 11 CFR 100.10.<sup>1</sup> The statutory definition of the term “person” expressly excludes the Federal Government and any authority thereof.<sup>2</sup>

<sup>1</sup> The terms “contribution” and “expenditure” are likewise defined at 2 U.S.C. 431(8)(A) and 11 CFR 100.7, and 2 U.S.C. 431(9)(A) and 11 CFR 100.8, respectively.

<sup>2</sup> 2 U.S.C. 431(11) provides: “The term ‘person’ includes an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons, but such term does not include the Federal Government or any authority of the Federal Government.”

Commission regulations at 11 CFR 106.3 require candidates for Federal office, other than Presidential and Vice-Presidential candidates who receive federal funds pursuant to 11 CFR part 9005 or 9036, to report expenditures for campaign-related travel. Specifically, section 106.3(b) states that “(1) Travel expenses paid for by a candidate from personal funds, or from a source other than a political committee, shall constitute reportable expenditures if the travel is campaign-related. (2) Where a candidate’s trip involves both campaign-related and non-campaign-related stops, the expenditures allocable for campaign purposes are reportable and are calculated on the actual cost-per-mile of the means of transportation actually used, starting at the point of origin of the trip, via every campaign-related stop and ending at the point of origin. (3) Where a candidate conducts any campaign-related activity in a stop, the stop is a campaign-related stop and travel expenditures made are reportable. Campaign-related activity shall not include any incidental contacts.”

Questions have arisen as to whether the allocation and reporting requirements in 11 CFR 106.3(b) are applicable to travel expenses paid for with funds authorized and appropriated by the Federal Government. Thus, the Commission is announcing its interpretation of the scope of 11 CFR 106.3(b) in that circumstance.

Because 2 U.S.C. 431(11) specifically excludes the Federal Government from its definition of a “person,” the Commission acknowledges that a candidate’s travel expenses that are paid for using funds authorized and appropriated by the Federal Government are not paid for by a “person” for the purposes of the Act. Therefore, the Commission believes that the allocation and reporting requirements of 11 CFR 106.3(b) are not applicable to the extent that a candidate pays for travel expenses using funds authorized and appropriated by the Federal Government. The Commission notes that this interpretation of 11 CFR 106.3(b) is in harmony with 11 CFR 106.3(d), which states that a candidate need not report “travel between Washington, DC and the state or district in which he or she is a candidate \* \* \* unless the costs are paid by a candidate’s authorized committee(s), or by any other political committee(s).”

Please note that this announcement represents the Commission’s interpretation of an existing regulation and is not intended to create or remove any rights or duties, nor is it intended to affect any other aspect of 11 CFR 106.3, the Act, or the Commission’s

regulations. Furthermore, this interpretation does not apply to presidential or vice presidential campaigns that are covered by the Presidential Election Campaign Fund Act, 26 U.S.C. 9001 *et seq.* (general elections) or the Presidential Primary Matching Payment Account Act, 26 U.S.C. 9031 *et seq.*<sup>3</sup> Finally, the Commission notes that the use of Federal funds is governed by general appropriations law and is subject to Congressional oversight.<sup>4</sup>

Dated: February 1, 2002.

**David M. Mason,**

*Chairman, Federal Election Commission.*

[FR Doc. 02-2858 Filed 2-5-02; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Parts 16 and 900

[Docket No. 99N-4578]

RIN 0910-AB98

#### State Certification of Mammography Facilities

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending its regulations governing mammography. The amendments implement the "States as Certifiers" (SAC) provisions of the Mammography Quality Standards Act of 1992 (MQSA). These amendments permit FDA to authorize individual States to certify mammography facilities, conduct facility inspections, enforce the MQSA quality standards, and administer other related functions. The amendments establish the standards to be met by States receiving this authority. They also establish procedures for application, approval, evaluation, and withdrawal of approval of States as certification agencies. FDA

<sup>3</sup> The Commission's regulations governing travel by presidential and vice presidential candidates who receive federal funds are found at 11 CFR 9034.7 and 9004.7, respectively. These regulations differ from 11 CFR 106.3 in several ways. See, for example, 11 CFR 9004.7(b)(5) and 11 CFR 9034.7(b)(5), which address reimbursement requirements for use of a government airplane to travel to or from a campaign-related stop.

<sup>4</sup> Both the Senate and the House of Representatives have provided specific guidance to their members regarding mixed-purpose travel. See page 118 of the *Senate Ethics Manual* (September 2000) and page 95 of the *Rules of the House of Representatives on Gifts and Travel* (April 2000).

retains oversight responsibility for the activities of the States to which this authority is given. Mammography facilities certified by those States must continue to meet the quality standards established by FDA for mammography facilities nationwide.

**DATES:** This rule is effective May 7, 2002. Submit written comments on the information collection requirements by March 8, 2002.

**ADDRESSES:** Submit written comments on the information collection requirements to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Wendy A. Taylor, Desk Officer for FDA.

**FOR FURTHER INFORMATION CONTACT:**

Kaye F. Chesemore, Center for Devices and Radiological Health (HFZ-240), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301-594-3332, FAX 301-594-3306.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

MQSA (Public Law 102-539) was enacted on October 27, 1992. The purpose of the legislation was to establish minimum national quality standards for mammography. To provide mammography services legally after October 1, 1994, MQSA requires all mammography facilities, except facilities of the Department of Veterans Affairs, to be accredited by an approved accreditation body and certified by the Secretary of Health and Human Services (the Secretary). The authority to approve accreditation bodies and to certify facilities was delegated by the Secretary to FDA. MQSA replaced a patchwork of Federal, State, and private standards with uniform minimum Federal standards designed to ensure that all women nationwide receive adequate quality mammography services. On October 9, 1998, the Mammography Quality Standards Reauthorization Act (MQSRA) (Public Law 105-248) was enacted to extend MQSA through fiscal year (FY) 2002.

#### A. Provisions of MQSA

In order to receive and maintain FDA certification, facilities must meet key requirements of MQSA, which include:

1. Compliance with quality standards for personnel, equipment, quality assurance programs, and reporting and recordkeeping procedures.

2. Accreditation by private, nonprofit organizations or State agencies that have been approved by FDA as meeting MQSA standards for accreditation

bodies and that continue to pass annual FDA performance evaluations of their activities. As part of the accreditation process, the accreditation body must evaluate actual clinical mammograms from each unit in the facility for quality. The accreditation body determines whether or not the facility quality standards have been met.

3. Demonstration of continued compliance with the facility quality standards through annual inspections performed by FDA-certified Federal or State inspectors.

#### B. Accomplishments to Date

Interim facility quality standards were published in the **Federal Register** of December 21, 1993 (58 FR 67558), and used as the basis for the initial certification of mammography facilities under MQSA beginning October 1, 1994. By that date, mammography facilities had to have a FDA certificate in order to continue to lawfully provide mammography services. In the **Federal Register** of October 28, 1997 (62 FR 55852), more comprehensive facility quality standards and accreditation body requirements were published and became effective on April 28, 1999. FDA has approved five accreditation bodies: American College of Radiology (ACR) and the States of Arkansas, California, Iowa, and Texas. The number of certified mammography facilities varies with time but typically is about 10,000. FDA has trained and certified Federal and State inspectors to conduct MQSA inspections, and the sixth year of inspections is underway.

#### C. Standards for Certification Agencies

State agencies have played a very important role in the development and implementation of the MQSA program. As already noted, four of the five accreditation bodies are States, thus providing an alternative to the ACR for accreditation of facilities within those four States. Most of the FDA-certified inspectors are State personnel who, under contract with FDA, have conducted the great majority of MQSA inspections. FDA currently has contracts for the performance of inspections with 47 States, the District of Columbia, Puerto Rico, and New York City. Mammography facilities in States without inspection contracts and all Federal facilities are generally inspected by FDA.

MQSA also provides for an even more significant State role in the MQSA program. Section 354(q) of the Public Health Service Act (the PHS Act) (42 U.S.C. 263b(q)) permits FDA to authorize qualified States to: (1) Issue, renew, suspend, and revoke certificates;