

For Subpart G:

Dated: November 14, 1979.

**M. Rupert Cutler,**

*Assistant Secretary for Natural Resources and Environment.*

[FR Doc. 79-35620 Filed 11-16-79; 8:45 am]

BILLING CODE 3410-01-M

## Federal Crop Insurance Corporation

### 7 CFR Part 431

#### Soybean Crop Insurance Regulations; Corrections

**AGENCY:** Federal Crop Insurance Corporation, USDA.

**ACTION:** Final rule; corrections.

**SUMMARY:** The final rulemaking published in the *Federal Register* on Thursday, November 1, 1979 (44 FR 64786-64794), on the Soybean Crop Insurance Regulations, contained several typographical errors. This notice is being published to correct those errors.

**EFFECTIVE DATE:** November 19, 1979.

**ADDRESS:** Any suggestions or inquiries on this notice should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

**FOR FURTHER INFORMATION CONTACT:** Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3325.

The corrections are as follows:

#### PART 431—SOYBEAN CROP INSURANCE

1. The last sentence of § 431.1, found in the center column on page 64787 (44 FR 64787), is corrected to read as follows:

##### § 431.1 Availability of soybean insurance.

\*\*\* Before insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which soybean insurance will be offered.

2. Section 431.5(b)(1), found in the right column on page 64787 (44 FR 64787), is hereby corrected to read as follows:

##### § 431.5 Good faith reliance on misrepresentation.

\* \* \* \* \*

(b) \*\*\*

(1) That an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice,

3. Section 5(d) of the Soybean Crop Insurance Policy, found in the left column on page 64791 (44 FR 64791), is hereby corrected in the last sentence thereof to read as follows:

(d) \* \* \* If such premium balance is not paid within 12 months immediately following the termination date, 9 percent simple interest shall apply from the termination date and each year thereafter to any unpaid premium balance.

4. Section 3(b) of the Appendix (Additional Terms and Conditions), found in the center column on page 64792 (44 FR 64792), is hereby corrected in the last sentence thereof to read as follows:

(b) \* \* \* The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

5. In Appendix "B", listing counties designated for soybean crop insurance, the word "Nansemond", found under the subheading "Virginia" in the right column on page 64794 (44 FR 64794), is hereby deleted and the word "Suffolk" is substituted therefor.

6. The reporting requirement footnote, found in the right column on page 64794 (44 FR 64794), at the end of the document, is corrected to read as follows:

**Note.**—The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942, and OMB Circular A-40.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516).)

Issued in Washington, D.C., on November 13, 1979.

**Peter F. Cole,**  
*Secretary, Federal Crop Insurance Corporation.*

Dated: November 13, 1979.

Approved by:

**George F. Vohs,**  
*Acting Manager, Federal Crop Insurance Corporation.*

[FR Doc. 79-35598 Filed 11-16-79; 8:45 am]

BILLING CODE 3410-08-M

## Agricultural Marketing Service

### 7 CFR Part 971

#### Lettuce Grown in Lower Rio Grande Valley in South Texas; Expenses and Rate of Assessment

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This regulation authorizes expenses for the functioning of the South Texas Lettuce Committee. It will

enable the committee to collect assessments from first handlers of lettuce grown in the Lower Rio Grande Valley in South Texas and to use the resulting funds for its expenses.

**EFFECTIVE DATE:** During fiscal period ending July 31, 1980.

**FOR FURTHER INFORMATION CONTACT:** Peter G. Chapogas (202) 447-5432.

**SUPPLEMENTARY INFORMATION:** *Findings.* Pursuant to Marketing Order No. 971 (7 CFR Part 971), regulating the handling of lettuce grown in Cameron, Hidalgo, Starr and Willacy Counties in Texas, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the committee, established under the marketing order, and upon other information, it is found that the expenses and rate of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to provide 60 days for interested persons to file comments, engage in public rulemaking procedure, and that good cause exists for not postponing the effective date until 30 days after publication (5 U.S.C. 553), as the order requires that the rate of assessment for a particular fiscal period shall apply to all assessable lettuce handled from the beginning of such period. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open meeting of the committee on November 1, 1979, at McAllen. No objections were offered. To effectuate the declared purposes of the act, it is necessary to make these provisions effective as specified.

The budget and rate of assessment has not been determined significant under USDA criteria for implementing Executive Order 12044.

7 CFR Part 971 is hereby amended to add a new § 971.219 as follows:

##### § 971.219 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending July 31, 1980, by the South Texas Lettuce Committee for its maintenance and functioning and for such purposes as the Secretary determines to be appropriate amount to \$35,000.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be two and one-half cents (\$0.025) per carton of assessable lettuce

handled by him as the first handler during the fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve to the extent authorized in § 971.43(a)(2).

(d) Terms used in this section have the same meaning as when used in the marketing agreement and this part.

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).)

Dated: November 9, 1979.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-35567 Filed 11-19-79; 8:45 am]

BILLING CODE 3410-02-M

## Office of Environmental Quality

### 7 CFR Part 3100

#### Enhancement, Protection, and Management of the Cultural Environment; Final Rulemaking

**AGENCY:** Office of Environmental Quality, United States Department of Agriculture (USDA).

**ACTION:** Final rule.

**SUMMARY:** The Office of Environmental Quality (OEQ), Office of the Secretary, U.S. Department of Agriculture, is publishing these regulations to set forth general policy and procedural direction pertaining to the management, enhancement and protection of the cultural environment, and to implement the regulations of the Advisory Council on Historic Preservation (ACHP) which prescribe procedures for compliance with Section 106 of the National Historic Preservation Act (NHPA). This Department adopts the regulations of the ACHP and sets forth in the following regulations general directives to assist USDA agencies in fulfilling their responsibilities under NHPA, Executive Order 11593, and the ACHP regulations.

**DATE:** Effective November 19, 1979.

**ADDRESS:** A copy of these final rules may be obtained from: Barry R. Flamm, Director, Office of Environmental Quality, USDA, Washington, D.C. 20250 (202-447-3965).

**FOR FURTHER INFORMATION CONTACT:** Dr. Janet Friedman, Cultural Resource Management Specialist Coordinator, Box 2417, Room 4236 South Building, USDA Forest Service, Washington, D.C. 20013 (202-447-2309).

#### Introduction

The cultural environment of our nation includes historic and prehistoric sites and properties which comprise a nonrenewable resource relating to past

human life. Although the people of this nation have long shown an interest in the protection of their heritage, that interest has increased dramatically in recent years. Public awareness of the irreversible loss of important historic and prehistoric resources, concern for all environmental values, growing interest in our past as reflected in the bicentennial celebration and "roots" phenomenon, economic and energy advantages of adaptive reuse of historic structures, and growing attachment to history and neighborhood have resulted in increasing recognition of the value of the reminders of our historic and prehistoric past. This concern has led to laws, regulations and Executive orders intended to protect our country's cultural environment.

The USDA is concerned with the management of the cultural environment in two principal ways: (1) Identification, protection, preservation, and interpretation of properties on lands administered by the Department (such as experiment stations, administrative sites and 188 million acres of National Forest land); (2) Identification, evaluation, and protection of properties on lands which may be affected by such USDA activities as watershed improvement, electrification projects, and developments built through USDA loan and loan guarantee programs.

The Office of Environmental Quality (OEQ), Office of the Secretary, U.S. Department of Agriculture, is publishing these regulations to set forth general policy and procedural direction pertaining to the management, enhancement and protection of the cultural environment, and to implement the regulations of the Advisory Council on Historic Preservation (ACHP) which prescribe procedures for compliance with Section 106 of the National Historic Preservation Act (NHPA). This Department adopts the regulations of the ACHP and sets forth in the following regulations general directives to assist USDA agencies in fulfilling their responsibilities under NHPA, Executive Order 11593, and the ACHP regulations. Each USDA agency whose programs and activities may affect the cultural environment will be responsible for promulgating more specific procedures, consistent with these broad directives, which are tailored to the specific programs and activities of that agency. All agencies shall consult with the OEQ regarding the need for developing specific implementation procedures. In addition to the above, this rule sets forth the role of the OEQ with regard to the ACHP process and procedures. Further, it explains the coordination between the

National Environmental Policy Act (NEPA) and NHPA processes.

This proposal has been reviewed under USDA criteria to implement Executive Order 12044 and has been determined to be significant. An approved Environmental Assessment and Impact Analysis Statement is available from Dr. Janet Friedman at the address provided above.

Richard H. Jenrette, Chairman, Advisory Council on Historic Preservation, approved these Final Rules on November 8, 1979.

#### Background

This document sets forth Departmental policies and procedures for compliance with the National Historic Preservation Act (NHPA) as amended and Executive Order 11593, and for implementing the regulations of the Advisory Council on Historic Preservation (36 CFR Part 800). It creates Subpart C of 7 CFR, Chapter XXXI, Part 3100 which was published in draft form in the *Federal Register* on July 9, 1979, as "Enhancement, Protection and Management of Cultural Resources". The subject has been changed from "cultural resources" to "cultural environment" to recognize the broad scope of the program. In the proposed rules, the sections were numbered as §§ 3102.1 through 3102.5, consecutively. These final rules have been renumbered as §§ 3100.40 through 3100.46 as set forth below.

#### Public Comment

Comment from the public was solicited through a Public Meeting (May 1, 1979), publication of draft regulations in the *Federal Register* (July 9, 1979), and distribution of 650 copies to individuals and organizations throughout the country. There were twenty-eight public responses, all of which are on file for review in the Office of Environmental Quality.

The response to the regulations was supportive. Most respondents felt that the regulations are a positive step by USDA which provide welcome and essential protection for vital resources.

Table one is a summary of distribution of respondents; Table two is a list of organizations which submitted comment.

Table 1.—Distribution of Public Comment

Federal agency.....	9
State agency.....	9
Organization.....	8
Individual.....	2
Total.....	28

Table 2.—List of Organizations Which Submitted Comment

## Federal Government

Advisory Council on Historic Preservation (Robert Garvey, Bert Fireman).  
 Department of the Interior:  
 Bureau of Land Management (Darrell Lewis).  
 Bureau of Mines (J. Morgan).  
 Bureau of Reclamation (Ward Weakley).  
 Heritage Conservation and Recreation Service (Chris De-la-porte).  
 General Services Administration (David Dibner).  
 Smithsonian Institution (Paul Perrot, Michael Collins).

## State Government

National Conference of State Historic Preservation Officers (SHPO) (Thomas Merlan).  
 Arkansas SHPO (Joan Williams Baldrige).  
 Colorado SHPO (Arthur Townsend).  
 Florida SHPO (L. Ross Morrell).  
 Georgia SHPO (Elizabeth Lyon).  
 Illinois Department of Conservation (Alan Downer).  
 Louisiana SHPO (Bernard Carrier).  
 Montana SHPO (Ken Korte).  
 New Hampshire SHPO (Linda Ray Wilson).

## Organizations

American Indian Law Center (Philip S. Deloria).  
 Arizona State Museum (Ray Thompson).  
 Federal Timber Purchasers Association (James Craine).  
 National Association of Conservation Districts (Charles Boothby).  
 National Trust for Historic Preservation (Douglas Wheeler).  
 Society for the Protection of New Hampshire Forests (Jan McClure).  
 University of New Hampshire (Billie Hornbeck).  
 University of South Carolina (William Marquardt).

## Individuals

W. R. Chapline, USFS (Retired), Washington, D.C.  
 Herbert Snyder, Grand Junction, Colorado.

## Summary of public comment and responses follows:

• *Comment:*

Several respondents reacted positively to the emphasis in the Implementation Section, § 3100.44, on balancing all resources in the decisionmaking process. Others expressed concern that this section provides a loophole through which noncompliant agencies can escape their responsibilities for protection of the cultural environment.

*Response:*

USDA is indeed committed to the protection of the cultural environment, recognizing that cultural resource protection must be balanced with such other needs as food and fiber production, environmental protection, natural resource and energy conservation, and rural development. The section remains unchanged from the draft.

• *Comment:*

There are no deadlines by which agencies must have completed their procedures.

*Response:*

Deadlines were established by the President's Memorandum of July 12, 1978. On Environmental Quality and water Resources Management, and

reiterated in 36 CFR Part 800. Although those deadlines have passed, USDA can hardly establish new and different ones.

• *Comment:*

Suggested a firmer role for OEQ in coordination of program development by USDA agencies.

*Response:*

Changed § 3100.45(a) to require consultation with OEQ in the development of agency procedures.

• *Comment:*

Suggested changing terms "primary" and "secondary" to "direct" and "indirect."

*Response:*

Change made in § 3100.45 (a)(4) and (e).

• *Comment:*

The requirement to develop plans to mitigate the adverse effect of a proposed undertaking is too general. It does not discuss how mitigation efforts will be funded, funding levels, and other specifics.

*Response:*

Some wording changes have been made in § 3100.45(a)(10) to clarify the funding of mitigation. However, the specific level of direction will be developed by each individual agency to enable it to deal with its own programs.

• *Comment:*

No standards are included which will be used to determine competence of professional staff to guide the management of cultural programs.

*Response:*

A sentence was added to § 3100.45(b) encouraging agencies to use Department of the Interior standards (36 CFR 61.5) as guidelines in meeting the staffing requirement.

• *Comment:*

Positive response was received to direction in § 3100.45(b) to hire professionals with expertise in various disciplines.

*Response:*

Section remains unchanged.

• *Comment:*

A few respondents objected to direction in § 3100.45(f) which was interpreted as USDA's adding responsibilities to the State Historic Preservation Offices. Preparation of State plans and inventories, and collection of data are seen as requirements on SHPO by USDA. An equal number of comments applauded the direction for close cooperation between USDA and the States.

*Response:*

The rules were intended not to burden the SHPO with additional

responsibilities and expense, but to accept for USDA a portion of the responsibility already required by legislation and regulation. The rules are intended to foster intergovernmental cooperation and provide protection for the resource in the most efficient manner. Only by working together will it be possible to successfully reach common goals without duplication of effort and expense. The rule does not direct the work of the State, but directs USDA personnel to cooperate with the State.

• *Comment:*

One respondent noted that the rule concentrates on implementation of ACHP regulations to the exclusion of reference to requirements of Executive Order 11593.

*Response:*

Requirements to inventory lands and nominate sites have been made more explicit in Direction to Agencies, § 3100.45(a).

• *Comment:*

Suggested requiring assessment of mineral potential prior to closure of any site for protection of the cultural environment.

*Response:*

Regulations do not close any area, only require identification and consideration of the resource. Rules stress a balancing of goals and resources.

• *Comment:*

Suggested reference to American Indian Religious Freedom Act.

*Response:*

Recognition of Department of Agriculture responsibilities to consider the American Indian Religious Freedom Act was added in several sections, specifically: Authorities (3100.41(1)), Policy (3100.43(d)), Implementation (3100.44(d)), and Direction to Agencies (3100.45(a)(7)).

• *Comment:*

Three commentors expressed fear that the agencies would not be required to write specific direction, to hire personnel, or to comply with the rule as proposed by USDA.

*Response:*

Although the rule does not set specific direction for agency programs, it does clearly and strongly require each agency to set its own direction.

Comments on the final rule are invited.

Dated: November 7, 1979.

Jim Williams,

Acting Secretary of Agriculture.

Accordingly, a new Subpart C to Part 3100 of Title 7 CFR will read as follows:

**Subpart C—Enhancement, Protection, and Management of the Cultural Environment**

Sec.

- 3100.40 Purpose.
- 3100.41 Authorities.
- 3100.42 Definitions.
- 3100.43 Policy.
- 3100.44 Implementation.
- 3100.45 Direction to agencies.
- 3100.46 Responsibilities of the Department of Agriculture.

Authority: Sec. 106, National Historic Preservation Act, as amended (16 U.S.C. 470f); National Environmental Policy Act, as amended (42 U.S.C. 4321 et seq.); E.O. 11593, 36 FR 8921, May 13, 1971.

**Subpart C—Enhancement, Protection and Management of the Cultural Environment**

**§ 3100.40 Purpose.**

(a) This subpart establishes USDA policy regarding the enhancement, protection, and management of the cultural environment.

(b) This subpart establishes procedures for implementing Executive Order 11593, and regulations promulgated by the Advisory Council on Historic Preservation (ACHP) "Protection of Historical and Cultural Properties" in 36 CFR Part 800 as required by Section 800.10 of those regulations.

(c) Direction is provided to the agencies of USDA for protection of the cultural environment.

**§ 3100.41 Authorities**

These regulations are based upon and implement the following laws, regulations, and Presidential directives:

(a) *Antiquities Act of 1906* (Pub. L. 59-209; 34 Stat. 225; 16 U.S.C. 431 et seq.) which provides for the protection of historic or prehistoric remains or any object of antiquity on Federal lands; establishes criminal sanctions for unauthorized destruction or appropriation of antiquities; and authorizes scientific investigation of antiquities on Federal lands, subject to permit and regulations. Paleontological resources also are considered to fall within the authority of this Act.

(b) *Historic Sites Act of 1935* (Pub. L. 74-292; 49 Stat. 666; 16 U.S.C. 461 et seq.) which authorizes the establishment of National Historic Sites and otherwise authorizes the preservation of properties of national historical or archeological significance; authorizes the designation

of National Historic Landmarks; establishes criminal sanctions for violation of regulations pursuant to the Act; authorizes interagency, intergovernmental, and interdisciplinary efforts for the preservation of cultural resources; and other provisions.

(c) *Reservoir Salvage Act of 1960* (Pub. L. 86-521; 74 Stat. 220; 16 U.S.C. 469-469c.) which provides for the recovery and preservation of historical and archeological data, including relics and specimens, that might be lost or destroyed as a result of the construction of dams, reservoirs, and attendant facilities and activities.

(d) *The National Historic Preservation Act of 1966* as amended (16 U.S.C. 470), which establishes positive national policy for the preservation of the cultural environment, and sets forth a mandate for protection in Section 106. The purpose of Section 106 is to protect properties on or eligible for the National Register of Historic Places through review and comment by the ACHP of Federal undertakings that affect such properties. Properties are listed on the National Register or declared eligible for listing by the Secretary of the Interior. As developed through the ACHP's regulations, Section 106 establishes a public interest process in which the Federal agency proposing an undertaking, the State Historic Preservation Officer, the ACHP, interested organizations and individuals participate. The process is designed to insure that properties, impacts on them, and effects to them are identified, and that alternatives to avoid or mitigate an adverse effect on property eligible for the National Register are adequately considered in the planning process.

(e) *The National Environmental Policy Act of 1969* (NEPA) (Pub. L. 91-190; 83 Stat. 852; 42 U.S.C. 4321 et seq.) which declares that it is the policy of the Federal Government to preserve important historic, cultural, and natural aspects of our national heritage. Compliance with NEPA requires consideration of all environmental concerns during project planning and execution.

(f) *Executive Order 11593, "Protection and Enhancement of the Cultural Environment"*, which gives the Federal Government the responsibility for stewardship of our nation's heritage resources and charges Federal agencies with the task of inventorying historic and prehistoric sites on their lands. E.O. 11593 also charges agencies with the task of identifying and nominating all historic properties under their jurisdiction, and exercising caution to insure that they are not transferred,

sold, demolished, or substantially altered.

(g) *Historical and Archeological Data Preservation Act of 1974*. (Pub. L. 93-291; 88 Stat. 174.) which amends the Reservoir Salvage Act of 1960 to extend its provisions beyond the construction of dams to any alteration of the terrain caused as a result of any Federal construction project or Federally licensed activity or program. In addition, the Act provides a mechanism for funding the protection of historical and archeological data.

(h) *Presidential memorandum of July 12, 1978, "Environmental Quality and Water Resource Management"* which directs the ACHP to publish final regulations, implementing Section 106 of the National Historic Preservation Act (NHPA), and further directs each agency with water and related land resources responsibilities to publish procedures implementing those regulations.

(i) *36 CFR Part 800, "Protection of Historic and Cultural Properties"* which establishes procedures for the implementation of Section 106 of the NHPA, and directs publication of agency implementing procedures.

(j) *Land use policy of the USDA (Secretary's Memorandum No. 1827 Revised, with Supplement)* which establishes a commitment by the Department to the preservation of farms, rural communities, and rural landscapes.

(k) *Public Buildings Cooperative Use Act of 1976* (40 U.S.C. 611) and *Executive Order 12072 (Federal Space Management)*. The Act encourages adaptive use of historic buildings as administrative facilities for Federal agencies and activities; the Executive Order directs Federal agencies to locate administrative and other facilities in central business districts.

(l) *American Indian Religious Freedom Act of 1978* (42 U.S.C. 1996) which declares it to be the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians.

**§ 3100.42 Definitions.**

All definitions are those which appear in 36 CFR Part 800. In addition, the following apply in this rule:

*Cultural resources (heritage resources)* are the remains or records of districts, sites, structures, buildings, networks, neighborhoods, objects, and events from the past. They may be historic, prehistoric, archeological, or architectural in nature. Cultural resources are an irreplaceable and

nonrenewable aspect of our national heritage

*Cultural environment* is that portion of the environment which includes reminders of the rich historic and prehistoric past of our nation.

#### § 3100.43 Policy.

(a) The nonrenewable cultural environment of our country constitutes a valuable and treasured portion of the national heritage of the American people. The Department of Agriculture is committed to the management—identification, protection, preservation, interpretation, evaluation and nomination—of our prehistoric and historic cultural resources for the benefit of all people of this and future generations.

(b) The Department supports the cultural resource goals expressed in Federal legislation. Executive orders, and regulations.

(c) The Department supports the preservation and protection of farms, rural landscapes, and rural communities.

(d) The Department is committed to consideration of the needs of American Indians, Eskimo, Aleut, and Native Hawaiians in the practice of their traditional religions.

(e) The Department will aggressively implement these policies to meet goals for the positive management of the cultural environment.

#### § 3100.44 Implementation.

(a) It is the intent of the Department to carry out its program of management of the cultural environment in the most effective and efficient manner possible. Implementation must consider natural resource utilization, must exemplify good government, and must constitute a noninflationary approach which makes the best use of tax dollars.

(b) The commitment to cultural resource protection is vital. That commitment will be balanced with the multiple departmental goals of food and fiber production, environmental protection, natural resource and energy conservation, and rural development. It is essential that all of these be managed to reduce conflicts between programs. Positive management of the cultural environment can contribute to achieving better land use, protection of rural communities and farm lands, conservation of energy, and more efficient use of resources.

(c) In reaching decisions, the long-term needs of society and the irreversible nature of an action must be considered. The Department must act to preserve future options; loss of important cultural resources must be avoided except in the face of overriding

national interest where there are no reasonable alternatives.

(d) To assure the protection of Native American religious practices, traditional religious leaders and other native leaders (or their representatives) should be consulted about potential conflict areas in the management of the cultural environment and the means to reduce or eliminate such conflicts.

#### § 3100.45 Direction to agencies.

(a) Each agency of the Department shall consult with OEQ to determine whether its programs and activities may affect the cultural environment. Then, if needed, the agency, in consultation with the OEQ, shall develop its own specific procedures for implementing Section 106 of the National Historic Preservation Act, Executive Order 11593, the regulations of the ACHP (36 CFR Part 800), the American Indian Religious Freedom Act of 1978 and other relevant legislation and regulations in accordance with the agency's programs, mission and authorities. Such implementing procedures shall be published as proposed and final procedures in the *Federal Register*, and must be consistent with the requirements of 36 CFR Part 800 and this subpart. Where applicable, each agency's procedures must contain mechanisms to insure:

(1) Compliance with Section 106 of NHPA and mitigation of adverse effects to cultural properties on or eligible for the National Register of Historic Places;

(2) Clear definition of the kind and variety of sites and properties which should be managed;

(3) Development of a long-term program of management of the cultural environment on lands administered by USDA as well as direction for project-specific protection;

(4) Identification of all properties listed on or eligible for listing in the National Register that may be affected directly or indirectly by a proposed activity;

(5) Location, identification and nomination to the Register of all sites, buildings, objects, districts, neighborhoods, and networks under its management which appear to qualify (in compliance with E.O. 11593);

(6) The exercise of caution to assure that properties managed by USDA which may qualify for nomination are not transferred, sold, demolished, or substantially altered;

(7) Early consultation with, and involvement of, the State Historic Preservation Officer(s), the ACHP, Native American traditional religious leaders and appropriate tribal leaders,

and others with appropriate interests or expertise;

(8) Early notification to insure substantive and meaningful involvement by the public in the agency's decisionmaking process as it relates to the cultural environment;

(9) Identification and consideration of alternatives to a proposed undertaking that would mitigate or minimize adverse effects to a property identified under paragraph (a)(4) of this section;

(10) Funding of mitigation measures where required to minimize the potential for adverse effects on the cultural environment. Funds for mitigation shall be available and shall be spent when needed during the life of the project to mitigate the expected loss; and

(11) Development of plans to provide for the management, protection, maintenance and/or restoration of Register sites under its management.

(b) Each agency of the Department which conducts programs or activities that may have an effect on the cultural environment shall recruit, place, develop, or otherwise have available, professional expertise in anthropology, archeology, history, historic preservation, historic architecture, and/or cultural resource management (depending upon specific need). Such arrangements may include internal hiring, Intergovernmental Personnel Act assignments, memoranda of agreement with other agencies or Departments, or other mechanisms which insure a professionally directed program. Agencies should use Department of the Interior professional standards (36 CFR 61.5) as guidelines to insure Departmentwide competence and consistency.

(c) Compliance with cultural resource legislation is the responsibility of each individual agency. Consideration of cultural resource values must begin during the earliest planning stages of any undertaking.

(d) Agency heads shall insure that cultural resource management activities meet professional standards as promulgated by the Department of the Interior (e.g., 36 CFR Parts 60, 63, 66, 1208).

(e) Cultural resource review requirements and compliance with Section 106 of NHPA and Executive Order 11593 shall be integrated and run concurrently, rather than consecutively, with the other environmental considerations under NEPA regulations. As such, direct and indirect impacts on cultural resources must be addressed in the environmental assessment for every agency undertaking. In meeting these requirements, agencies shall be guided by regulations implementing the

procedural provisions of NEPA (40 CFR Parts 1500-1508) and Department of Agriculture regulations (7 CFR Part 3100, Subpart B).

(f) Each agency shall work closely with the appropriate State Historic Preservation Officer(s) in their preparation of State plans, determination of inventory needs, and collection of data relevant to general plans or specific undertakings in carrying out mutual cultural resource responsibilities.

(g) Each agency shall, to the maximum extent possible, use existing historic structures for administrative purposes in compliance with Public Buildings Cooperative Use Act of 1976 and Executive Order 12072, "Federal Space Management".

(h) Each agency should consult with Native American traditional religious leaders or their representatives and other native leaders in the development and implementation of cultural resource programs which may affect their religious customs and practices.

#### § 3100.46 Responsibilities of the Department of Agriculture.

(a) Within the Department, the responsibility for the protection of the cultural environment is assigned to the Office of Environmental Quality (OEQ). The Office is responsible for reviewing the development and implementation of agency procedures and insuring Departmental commitment to cultural resource goals.

(b) The Director of the OEQ is the Secretary's Designee to the ACHP.

(c) In order to carry out cultural resource responsibilities, there will be professional expertise within the OEQ to advise agencies, aid the Department in meeting its cultural resource management goals, and to insure that all Departmental and agency undertakings comply with applicable cultural resource protection legislation and regulations.

(d) The OEQ will be involved in individual compliance cases only where resolution cannot be reached at the agency level. Prior to the decision to refer a matter to the full Council of the ACHP, the OEQ will review the case and make recommendations to the Secretary regarding the position of the Department. The agency also will consult with the OEQ before reaching a final decision in response to the Council's comments. Copies of correspondence relevant to compliance with Section 106 shall be made available to OEQ.

[FR Doc. 79-35591 Filed 11-16-79; 8:45 am]

BILLING CODE 3410-01-M

## DEPARTMENT OF ENERGY

### Economic Regulatory Administration

#### 10 CFR Part 211

[Docket No. ERA-R-79-28]

#### Mandatory Petroleum Allocation Regulations; Amendments To Include Additional Petroleum Substitutes in the Entitlements Program

**AGENCY:** Economic Regulatory Administration, Department of Energy.

**ACTION:** Final Rule and Notice of Further Consideration.

**SUMMARY:** The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is amending the Mandatory Petroleum Allocation Regulations (10 CFR Part 211) to provide for the automatic inclusion in the crude oil entitlements program of solid municipal waste and solid derivatives thereof used as fuel, shale oil used for non-refining purposes, and methane derived from municipal sewage or landfills. The amendments will also permit solid fuels derived from non-municipal solid waste, as well as gaseous fuels derived from any solid-waste sources, to receive the same treatment as liquid solid-waste derivatives, which are currently eligible on a case-by-case basis for inclusion in the entitlements program. The purpose of the amendments is to offset the regulatory bias in favor of petroleum and against non-petroleum fuel sources which would otherwise continue until the total deregulation of crude oil prices on September 30, 1981. We are continuing this rulemaking in order to give further consideration as to whether action should be taken in this proceeding regarding those aspects of the June 1979 proposal pertaining to wood and coal used to supplement petroleum.

**EFFECTIVE DATE:** June 1, 1979.

#### FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 634-2170.

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#### SUPPLEMENTARY INFORMATION:

- I. Background
- II. Amendments Adopted
- III. Reporting Requirements
- IV. Effective Date
- V. Continuation of Rulemaking Proceeding
- VI. Procedural Matters

#### I. Background

On May 12, 1978, we issued a final rule (43 FR 21429, May 18, 1978) which amended the mandatory Petroleum Allocation Regulations to provide for the inclusion in the crude oil entitlements program of shale oil produced from domestic sources and used in a refinery. In addition, the final rule provides that other synthetic liquid fuels (as well as shale oil used other than in a refinery) produced from domestic sources may also earn entitlement benefits, following a review procedure whereby we determine the eligibility of an applicant on a case-by-case basis. On January 19, 1979, we adopted guidelines setting forth the procedures and criteria under which we review each application and determine an applicant's eligibility to participate in the entitlements program (44 FR 6895, February 5, 1979).

The May 1978 final rule permits certain synthetic fuels to receive the same treatment under the entitlements program as crude oil not subject to price regulation. Our purpose in adopting the rule was to eliminate the disincentive to the production and use of these fuels created by our regulatory scheme for petroleum which, through the combined operations of the price regulations and the entitlements program, results in the effective price of all crude oil used in the United States being lower than the world market price for crude oil.

Our decision to limit eligibility for inclusion in the entitlements program under the May 1978 final rule to those fuels which are in liquid form was based on our understanding at that time that fuels which can be substituted for petroleum are generally in liquid form. However, based on the comments received in response to the May 1978 notice, we concluded that certain additional synthetic fuels in gaseous and solid form, while not necessarily suitable for burning in traditional oil burners, are nevertheless in direct competition with petroleum and represent a significant substitute for crude oil. In addition we determined in view of our experience since adoption of the May 1978 rule that certain other fuels currently restricted to inclusion in the entitlements program on a case-by-case basis should automatically qualify for entitlements.

On May 27, 1979, we issued a notice of proposed rulemaking (44 FR 32225, June