§ 979.301 Handling regulation.

From the effective date herein through August 31, 1979, no person shall handle cantaloup or honey dew melons unless they meet the requirements of paragraphs (a) through (c), (d) or (e) and (f) of this section.

(a) *Grade requirements.* Not more than 50 percent of the melons in any lot may fail to meet the requirements of U.S. Commercial grade except no more than 20 percent shall be allowed for serious damage, and including in this latter amount not more than 10 percent for melons affected by soft decay. Black surface discoloration shall not be considered as a grade defect with respect to such grade. Individual cartons shall contain not less than 25 percent U.S. Commercial or better quality.

(b) *Container requirements.* (1) Except as provided in paragraphs (b)(5), (d) or (e) and (f) all cantaloups shall be packed in fiberboard cartons with inside dimensions of not more than 17¼ nor less than 16¾ inches in length, not more than 13 nor less than 12¾ inches in width, and not more than 10⅜ nor less than 9¾ inches in depth. All honey dew melons shall be packed in fiberboard cartons with inside dimensions of 17 inches long by 15¼ inches wide and not more than 7½ inches nor less than 6½ inches deep. A tolerance of ¼ inch for each dimension shall be permitted.

(2) Each container shall be marked to indicate the count; the name, address, and zip code of the shipper; the name of the product; and the words "Produce of U.S.A." or "Product of U.S.A."

(3) If the container in which the melons are packed is not clean and bright in appearane without marks, stains, or other evidence of previous use, the container shall be conspicuously marked with the words "USED BOX" in letters not less than three-fourths (¾) inch high.

(4) The committee may exempt handlers from the container requirements of (b)(1) above to allow the one-time use of existing inventories of containers that do not meet these requirements.

Handlers requesting exemption from container requirements shall apply to the committee in writing and furnish the committee with such information as it deems necessary including the quantity to be shipped and the reason for the exemption. The committee may then at its option issue to the handler a permit authorizing the use of a specified number of containers for one-time use only under committee supervision. If the request of such handler is denied in whole or part, the committee shall promptly inform the handler of its action.

(5) These container requirements shall not be applicable to melons sold to Federal agencies.

(c) *Inspection.* (1) No handler may handle any melons regulated hereunder except pursuant to paragraphs (d) or (e) and (f) of this section unless an inspection certificate has been issued covering them and the certificate is valid at the time of shipment.

(2) No handler may transport by motor vehicle or cause such transportation of any shipment of melons for which an inspection certificate is required unless each such shipment is accompanied by a copy of the inspection certificate applicable thereto or by documentary evidence on forms furnished by the committee identifying truck lots to which a valid inspection certificate is applicable. A copy of such inspection certificate or committee document shall be surrendered upon request to authorities designated by the committee.

(3) For purposes of operation under this part each inspection certificate or committee form required as evidence of inspection is hereby determined to be valid for a period not to exceed 72 hours following completion of inspection as shown on the certificate.

(4) Designated inspection stations will be located at the Texas Federal Inspection Service office, 1301 W. Expressway, Alamo (Phone (512) 787-4091 or 6881) and the Matt Dietz Packing Co., 4700 N. Santa Maria, Laredo, phone (512) 723-9178 or 9170, to be available for handlers who do not have permanent packing facilities recognized by the committee.

(5) Handlers shall pay assessments on all assessable melons according to the provisions of § 979.42, at the rate of 1½ cents per carton.

(d) *Minimum quantity exemption.* Notwithstanding any other provision of this section, melons may be handled without regard to the provisions of §§ 979.42, 979.52, 979.60, and 979.80 and the regulations issued thereunder, if the shipment does not exceed 120 pounds net weight of melons to any one person during any one day, except that the exempted quantity shall not be included as a part of any shipment exceeding 120 pounds and further that such melons are not for resale.

(e) *Special purpose shipments.* (1) The requirements of paragraphs (a) through (c) of this section shall not apply to shipments for charity, relief, canning and freezing if a handler presents a Certificate of Privilege for such melons prior to handling them in accordance with § 979.155.

(2) Melons failing to meet the requirements of paragraphs (a) through (c) of this section and not exempt under paragraphs (d) or (e), and all melons discarded from the grading table shall either be mechanically spiked or mutilated or handled for special purpose outlets in accordance with § 979.152.

(f) *Safeguards.* Each handler making shipments of melons for relief, charity, canning or freezing under paragraph (e) of this section shall:

(1) Notify the committee of the intent to ship melons under paragraph (e) of this section by applying on forms furnished by the committee for a Certificate of Privilege applicable to such special purpose shipments.

(2) Obtain an approved Certificate of Privilege.

(3) Prepare on forms furnished by the committee a special purpose shipment report for each individual shipment.

(4) Forward copies of the special purpose shipment report to the committee office and to the receiver with instructions to the receiver to sign and return a copy to the committee's office. Failure of the handler or receiver to report such shipments by promptly signing and returning the applicable special purpose shipment report to the committee office shall be cause for suspension of such handler's Certificate of Privilege applicable to such shipments.

(g) *Definitions.* "U.S. melon standards" means the United States Standards for Grades of Cantaloups (7 CFR 2851.475-2851.494c), or the United States Standards for Grades of Honey Dew and Honey Ball Type Melons (7 CFR 2851.3740-2851.3749), whichever is applicable, or variations thereof specified in this section. The term "U.S. Commercial" shall have the same meaning as set forth in these standards.

All other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 156 and this part.

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

Dated: May 15, 1979, to become effective May 17, 1979.

Note.—This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

D. S. Kuryloski,

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

[FR Doc. 79-15505 Filed 5-16-79; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 979

Melons Grown in South Texas; Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This subpart establishes the rules and regulations for the operation of Order No. 979 regulating the handling of melons grown in South Texas, which became effective April 13, 1979 (44 FR 22038). The rules are necessary for implementation of the order and contain the general requirements relating to the conduct of meetings, setting of the fiscal period, nomination of public members, special purpose shipment procedures and reporting requirements.

EFFECTIVE DATE: May 17, 1979.

FOR FURTHER INFORMATION CONTACT: Donald S. Kuryloski, Acting Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone (202) 447–6393.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 156 and Order No. 979 (7 CFR Part 979) regulate the handling of melons grown in 19 designated counties of South Texas. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Notice of rulemaking was published in the May 3, 1979, **Federal Register** (44 FR 25848). The notice afforded interested persons through May 12, 1979, to file written comments on the proposal. None was filed.

These rules and regulations were recommended by the South Texas Melon Committee at its public meetings in McAllen and Weslaco, Texas, on April 17, 19 and 25.

The order is defined in this subpart to provide a means of referring to this part without using the citation each time.

The fiscal period is set at May 1 through April 30 of the following year. This allows time for the budget to be prepared, recommended and approved prior to the time disbursements of committee funds are made.

The rules also contain eligibility requirements for the public member. The requirements would provide representation from a nonagricultural point of view; from someone not having a financial (or economic) interest in, or other close association with the production, processing, financing or marketing of melons. The public member and alternate will be nominated by the growers and handlers on the committee and will serve the same term of office as other committee members.

Nomination procedures for public members are also included in the rules. Under these rules, questionnaires may be sent to interested persons to determine their qualifications. The names and qualifications are then submitted to the committee. After the initial season, the names of persons nominated for public member and alternate positions are to be submitted to the Secretary by January 15.

The committee is authorized to meet by telephone since it may not always be practical or expedient to hold an assembled meeting. Such telephone meetings may be called only by the chairman or vice-chairman acting in his stead, and seven affirmative votes are required to approve any action. All votes must be promptly confirmed in writing by the voter.

Procedures for the handling of culls are specified by the rules. Melons failing the requirements contained in the handling regulation are required to either be spiked or mechanically mutilated or be handled for special purpose outlets. This will preclude entry of poor quality or otherwise unsuitable melons into normal channels of trade to the detriment of the melon industry.

Handlers making shipments of melons for special purposes are required to provide the committee with information regarding such shipments to preclude the entry of the melons into normal channels of trade. Handlers are required to obtain a Certificate of Privilege from the committee and comply with all reporting requirements. This will give the committee the information necessary for determining compliance. The rules contain the necessary procedures for determining qualification, application for the Certificate, approval by the committee and disqualification.

In order to help the committee become informed on the size and quality of the crop, each handler is required to furnish, during the planting season, information on a bi-weekly basis to the committee. Such information may include the number of acres and location of cantaloups and honey dew melons planted by them or by growers for whom they pack.

The rules and regulations were discussed at three widely publicized open public meetings where interested persons were given opportunities to make comments. Producers and handlers attending the meetings strongly supported the proposal.

After consideration of all relevant matters, including the proposals set forth in the notice, it is hereby found that these rules and regulations 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 section until 30 days after its publication in the **Federal Register** (5 U.S.C. 553) in that (1) shipments of melons from the production area have already begun, (2) to maximize benefits to producers the provisions of these rules and regulations should cover as many shipments as possible, (3) information regarding these provisions has been made available to producers and handlers in the production area, and (4) compliance with this regulation will not require any special preparation on the part of persons subject to it that cannot be completed by the effective date.

The new sections to be added to 7 CFR Part 979 read as follows:

PART 979—MELONS GROWN IN SOUTH TEXAS

Sec.

* * * * *

979.100 Order.
979.106 Registered handler.
979.110 Fiscal period.
979.122 Eligibility requirements for public members.
979.126 Nomination procedures for public members.
979.132 Procedure.
979.152 Handling of culls.
979.155 Safeguards.
979.180 Reports.

§ 979.100 Order.

"Order" means Order No. 979 (§§ 979.1 to 979.92; 44 FR 22038) regulating the handling of melons grown in South Texas.

§ 979.106 Registered handler.

For purposes of this part, a registered handler is a person who has adequate facilities for packing melons for market and who assumes initial responsibility for compliance with inspection, assessment, and other regulatory requirements on the handling of melons grown in the production area. Any person who wishes to become a registered handler shall make application for registration with the committee on forms furnished by the committee. If such applicant has facilities available which are determined by the committee as adequate for the packing of melons, such person may be approved as a registered handler. Growers who make deliveries of fieldrun melons to such registered handlers are hereby determined to be exempt from otherwise applicable regulations pursuant to this part.

§ 979.110 Fiscal period.

"Fiscal period" means the annual period beginning May 1 and ending on April 30 of the following year.

§ 979.122 Eligibility requirements for public members.

(a) A public member shall represent a nonagricultural point of view, and shall not have a financial (or economic) interest in, or be closely associated with the production, processing, financing or marketing of melons.

(b) Public members should be able to devote sufficient time and express a willingness to attend committee activities regularly and to familiarize themselves with the background and economics of the industry.

(c) Public members must be residents of the production area.

(d) Public members shall be nominated by the South Texas Melon Committee and shall serve a two-year term which coincides with the term of office of producer or handler members of the committee.

§ 979.126 Nomination procedures for public members.

(a) Names of candidates together with evidence of qualification for public membership on the South Texas Melon Committee shall be submitted to the committee at its business office.

(b) Questionnaires may be sent by the committee to those persons submitted as candidates, to determine their eligibility and interest in becoming a public member.

(c) The names of persons nominated for the public member and alternate positions shall be submitted by the incumbent committee to the Secretary by January 15 with such information as deemed pertinent by the committee or as requested by the Secretary.

(d) Nomination of the initial public member shall be made as soon as possible but not later than 90 days after the first meeting of the committee.

§ 979.132 Procedure.

The committee shall be authorized to meet by telephone or other means of communication. Any vote at such a meeting shall be promptly confirmed in writing by each voter. On such occasions seven affirmative votes shall be necessary to approve any action. Telephone meetings shall be called only by the Committee chairman or vice-chairman acting in his stead.

§ 979.152 Handling of culls.

(a) The handling of culls, i.e., melons which fail to meet the grade, size, quality or other requirements established under § 979.52(b) of this part is prohibited unless such melons are:

(1) Mechanically spiked or mutilated at the packing shed rendering them unsuitable for fresh market; or

(2) Handled for special purpose outlets approved under § 979.54 of this part.

(b) As a safeguard against culls entering fresh market channels each handler under subparagraph (2) shall apply for and obtain a certificate from the committee which shall require the handler to furnish such reports or other information as the committee may request.

§ 979.155 Safeguards.

(a) *Policy.* Whenever shipments of melons for special purposes pursuant to § 979.54 are relieved in whole or in part from regulations issued under § 979.52, the committee may require information and evidence on the manner, methods, and timing of such shipments as safeguards against the entry of any such melons in trade channels other than those for which intended. Such information and evidence shall include requirements set forth below with respect to Certificates of Privilege.

(b) *Qualification.*—Before handling melons for special purposes which do not meet regulations issued pursuant to § 979.52, a handler, when required by such regulations, must qualify with the committee to handle shipments for special purposes. To qualify one must (1) apply for and receive a Certificate of Privilege indicating the intent to so handle melons, (2) agree to comply with reporting and other requirements set forth in § 959.155 with respect to such shipments, and (3) receive approval of the committee, or its duly authorized agents, to so handle melons. Such approval will be based upon evidence furnished in the application for Certificate of Privilege and other information available to the committee.

(c) *Application.* (1) Applications for a Certificate of Privilege shall be made on forms furnished by the committee. Each application may contain, but need not be limited to, the name and address of the handler; the quantity by grade, size, quality and container of the melons to be shipped; the mode of transportation; the consignee; the destination; the purpose for which the melons are to be used; and certification to the United States Department of Agriculture and to the committee as to the truthfulness of the information shown thereon, and any other appropriate information or documents deemed necessary by the committee or its duly authorized agents for the purposes stated in § 979.155.

(2) The committee may require each handler making shipments of melons for export to include with his application a copy of the Department of Commerce Shippers Export Declaration Form No. 7525–V applicable to such shipment.

(d) *Approval.* The committee or its duly authorized agents shall give prompt consideration to each application for a Certificate of Privilege. Approval of an application, based upon the determination as to whether the information contained therein and other information available to the committee supports approval, shall be evidenced by the issuance of a Certificate of Privilege to the applicant. Each certificate shall cover a specified period and specified qualities and quantities of melons to be sold or transported to a designated consignee for the purpose declared.

(e) *Reports.* Each handler of melons shipping under Certificates of Privilege shall supply the committee with reports as requested by the committee, or its duly authorized agents, showing the name and address of the shipper; the car or truck identification; the loading point; destination; consignee; the inspection certificate number when inspection is required; and any other information deemed necessary by the committee.

(f) *Disqualification.* The committee from time to time may conduct surveys of handling of melons for special purposes requiring Certificates of Privilege to determine whether handlers are complying with the requirements and regulations applicable to such certificates. Whenever the committee finds that the handler or consignee is failing to comply with requirements and regulations applicable to handling of melons in special outlets and requiring such certificates, a Certificate or Certificates of Privilege issued such handler may be rescinded and subsequent certificates denied. Such disqualification shall apply to, and not exceed, a reasonable period of time as determined by the committee, but in no event shall it extend beyond the date of the succeeding fiscal period. Any handler who has a certificate rescinded or denied may appeal to the committee in writing for reconsideration of his disqualification.

§ 979.180 Reports

Each handler shall furnish every two weeks during the planting season to the committee on a form provided by the committee the number of acres of cantaloups and honey dew melons planted by the handler or growers for whom the handler packs melons during such period and the location of such plantings. However, during the first season of operation under the order each handler need only report the number of acres each of cantaloups and honey dew melons planted together with the location of all such plantings.

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

Dated: May 15, 1979 to become effective May 17, 1979.

Note.—This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

D. S. Kuryloski,

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

[FR Doc. 79-15506 Filed 5-16-79; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

[FmHA Instruction 1980-A]

7 CFR Part 1980

Program Regulations; General Amendments

AGENCY: Farmers Home Administration, USDA.

ACTION: Final Rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations to add a settlement option for lenders who acquire property either through voluntary conveyance or foreclosure. Such an option is not available under current regulations. This change is necessitated to handle current loans involving foreclosure. The effect of the change will permit the lender to calculate the final loss settlement using net proceeds received at final liquidation rather than a bid value at the time of a public sale. In addition, lenders would not be violating their legal lending limits and the Government would not be paying excessive loss settlements.

EFFECTIVE DATE: March 17, 1979.

FOR FURTHER INFORMATION CONTACT: Darryl H. Evans, Loan Specialist, Telephone 202-447-4150.

SUPPLEMENTARY INFORMATION: § 1980.64 of Subpart A of Part 1980 of Chapter XVIII, Title 7, Code of Federal Regulations is amended to add a new subparagraph (c).

Under present regulations, once collateral is acquired by a lender by voluntary Conveyance at foreclosure through the use of a protective bid, the liquidation of that collateral would be complete. At this point a lender would be required to file with FmHA a final report of loss using the value assigned for voluntary Conveyance purposes or the protective bid value in calculating any loss. In addition, the lender may be violating its legal lending limit should the acquisition value exceed its lending authority. The government could also pay out excess amounts in loss settlements where acquisition values are less than the amount realized at final sale of the collateral.

The proposed change would eliminate these problems by permitting the lender the option to calculate the final loss at the time the collateral is actually sold if the lender acquires it. The guarantee would continue to final liquidation.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking since this change is beneficial to all parties of interest and is considered necessary to administer current loans in foreclosure. Therefore, public participation is unnecessary. This determination was made by Darryl H. Evans.

Accordingly, § 1980.64(c) of Subpart A of Part 1980 is added and reads as follows:

§ 1980.64 Liquidation.

* * * * *

(c) *Settlement option.* If a lender acquires title to property either through voluntary conveyance or foreclosure proceeding, FmHA may elect to permit the lender the option to calculate the final loss settlement using the net proceeds received at the time of ultimate disposition of such property. The lender must submit its written request for this option to FmHA, and FmHA must agree, prior to the lender submitting any request for estimated loss payment.

Note.—This document has been reviewed in accordance with FmHA Instruction 1901-G, "Environmental Impact Statement." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, P.L. 91-190, an Environmental Impact Statement is not required.

This regulation has not been determined significant under USDA criteria implementing Executive Order 12044.

A copy of the Impact Analysis Statement is available at the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S.D.A., Room 6348, South Agriculture Building, Washington, D.C. 20250.

(7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; Sec. 10 P.L. 93-357 88 Stat. 392; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

Dated: April 25, 1979.

James E. Thornton,

Associate Administrator, Farmers Home Administration.

[FR Doc. 79-15329 Filed 5-16-79; 8:45 am]

BILLING CODE 3410-07-M

Office of the Secretary

7 CFR Part 2900

Essential Agricultural Uses and Requirements—Natural Gas Policy Act

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: Section 401(c) of the Natural Gas Policy Act of 1978 (NGPA) (Pub. L. 95-621, November 9, 1978) provides that the Secretary of Agriculture shall certify to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) the natural gas requirements of essential agricultural uses for full food and fiber production.

The Final Rule determines and certifies the essential agricultural uses and the natural gas requirements of such uses necessary for full food and fiber production. It is intended to supplant the Interim Final Rule presently incorporated by reference in both the Secretary of Energy's final rule and the Federal Energy Regulatory Commission's (FERC) interim rule.

EFFECTIVE DATE: The Final Rule will become effective on May 14, 1979.

FOR FURTHER INFORMATION CONTACT: Weldon V. Barton, Director, Office of Energy, USDA, 202-447-2455.

SUPPLEMENTARY INFORMATION: Under Section 401(a) of the NGPA, the Secretary of Energy is required to prescribe and make effective a rule providing that to the maximum extent practicable, no curtailment plan of an interstate pipeline may provide for curtailment of deliveries of natural gas for any essential agricultural use, unless the curtailment does not reduce the quantity of natural gas delivered for such use below the amount certified by the Secretary of Agriculture or is necessary to serve high priority users. This rule, incorporating the Secretary of Agriculture's certification, was required by statute to be made effective not later than March 9, 1979.

On November 24, 1978, the Secretary of Agriculture published in the **Federal Register** (43 FR 54938) a proposed rule to certify essential agricultural uses of natural gas and the amounts of natural gas (in percentages of use) required for such essential agricultural uses. The Proposed Rule set forth the certification by the Secretary of Agriculture of (1) essential agricultural uses and (2) the natural gas requirements of those essential agricultural uses, as required under Section 401(c), NGPA.

In order to meet the statutory time constraints for providing relief from supply curtailment to essential agricultural users and to allow comment on and consideration of environmental effects, an interim final rule was issued on March 1, 1979, with the indication that it would be superseded by a permanent rule about April 30, 1979.

This interim period has permitted the USDA to reevaluate the Proposed Rule and public comments thereon, as well as comments on the Draft Economic and Environmental Impact Statement issued on February 23, 1979, and to develop the Final Rule as appropriate for the longer term.

I. Statutory Background

Natural gas is a crucial energy source in the food and fiber system. The desirability of clean-burning natural gas in food processing where the flame directly contacts the foodstuffs, the perishability of many food and fiber commodities, the unpredictability of fuel supply requirements in the agricultural sector due to weather variations, and the particular impact of price and supply availability of natural gas on food price volatility and resultant inflationary pressures, justify the special end-product approach to natural gas curtailment policy in the case of the food and fiber system, as reflected in Section 401(c) of the NGPA.

The NGPA provides for such an end-product curtailment priority for essential agricultural uses of natural gas which are necessary for full food and fiber production. The subparts of Section 401 explain the statutory responsibilities of each of the three agencies involved in implementing the agricultural priority, and specify the criteria for defining the scope of the program.

Section 401(c) provides that the Secretary of Agriculture "shall certify to the Secretary of Energy and the FERC, the natural gas requirements (expressed either as volumes or percentages of use) persons (or classes thereof) for essential agricultural uses in order to meet the requirements of full food and fiber production."

Section 401(b) authorizes the FERC, in consultation with the Secretary of Agriculture, to make determinations regarding the economic practicability and reasonable availability of a fuel other than natural gas as an alternative for any agricultural use of natural gas. The Conference Report accompanying the NGPA states, regarding Section 401(b), that "The conferees intend that the authority to restrict curtailment priority by determining that alternative fuels are economically practicable and reasonably available be utilized only in cases where it is clear that both tests are met. One of the reasons for imposing such a requirement is to prevent unnecessary increases in the cost of food in this country. The Commission determination that an alternative fuel is 'economically practicable' shall not include a requirement to switch to high-cost alternatives. That is not what the conferees consider to be 'economically practicable'."

Section 401(d) provides that the "Secretary of Agriculture may intervene as a matter of right in any proceeding before the Commission which is conducted in connection with implementing the requirements" of the Secretary of Energy's rule pursuant to Section 401(a).

For purposes of Section 401 of the NGPA, Section 401(f) stipulates that the term "essential agricultural use," when used with respect to natural gas "means any use of natural gas—

(a) for agricultural production, natural fiber production, natural fiber processing, food processing, food quality maintenance, irrigation pumping, crop drying, or

(b) as a process fuel or feedstock in the production of fertilizer agricultrual chemicals, animal feed, or food,

which the Secretary of Agriculture determines is necessary for full food and fiber production."

The Final Rule is intended to certify two specific determinations that are required of the Secretary of Agriculture under Section 401 of the NGPA. The rule provides to the Secretary of Energy and to the FERC the following certifications:

(a) Essential agricultural *uses* of natural gas, expressed as classes of establishments or portions thereof that use gas for essential agricultural purposes; and

(b) Essential agricultural current *requirements* of natural gas in order to meet full food and fiber production, expressed as percentages of use.

II. Certification of Essential Agricultural Uses

The classes of use included in the Final Rule remain identical to those in the Interim Final Rule, except that food stores (SIC 54) have been added to the certification list.

As noted above, one responsibility of the Secretary of Agriculture under the Section 401 of the NGPA is to determine essential agricultural uses, that is, the uses of natural gas for certain statutorily enumerated functions which the Secretary determines are necessary for full food and fiber production.

Food stores had not been included in the Proposed Final Rule because the volume of natural gas involved in the case of any such establishment was assumed to be less than 50 mcf/day and therefore would be covered in a higher priority (small-scale commercial) than that provided by Section 401.

Public comments received indicated that certain food warehouses classified within SIC 54 consume more than 50 mcf/day. Since it was intended to include the storage and warehousing functions of SIC 54 in the Interim Final Rule, this final rule certified all uses of natural gas within SIC 54 as essential agricultural uses necessary for full food and fiber production. The operation of food stores, including warehousing and storage functions, are necessary to prevent food spoilage and product loss and thus are necessary for full food and fiber production. Consequently, SIC industry 54—food stores—has been added to the certification list. Because SIC 54 is added to the certification list, it is not necessary to specifically include SIC 5462—retail bakeries (baking and selling)—as in the Interim Final Rule. These establishments are classified within SIC 54.

Public comments on the Proposed Rule included arguments both for and against a much broader determination of uses of natural gas for natural fiber processing which are necessary for full food and fiber production. Specifically, comments centered on the wood and lumber industry (SIC 24), the paper and allied products industry (SIC 26), and the textile industry (SIC 22).

Because of the level of public interest regarding these industries and the substantial amounts of natural gas involved, the public comments and relevant information were reevaluated and the arguments on both sides were carefully weighed in drafting the Final Rule.

In the Interim Final Rule, cotton ginning and compressing (in SIC 0724) was included in the certification list but SIC 22 (with the exception of wool carding and topping in SIC 2299) was not included. The wood and lumber, and paper and allied products industries were also not included in the certification list.

A reevaluation of public comments and relevant information reaffirmed the exclusion of SIC industries 22, 24, and 26 (except wool carding and topping in SIC 2299) from the certification list as in the Interim Final Rule.

The rationale specifically stated for not including the lumber and paper industries in the Interim Final Rule was that "Congress did not express an intention to include wood as natural fiber for purposes of Title IV of the NGPA and that wood as an input for food packaging is several steps removed from the final product."

Section 401(f)(1) of the NGPA provides a list of functions for which the use of natural gas is eligible to be certified as an essential agricultural use based upon a determination of the Secretary of Agriculture that the use of natural gas for that purpose is "necessary for full food and fiber production." "Full food and fiber production" is in turn defined in Section 2900.2(a) in the Proposed, Interim Final, and Final Rules to include "the processing of food and fiber into stable and storable products * * *."

As a result of the review process, it was concluded that SIC industries 24 and 26 should not be included. The use of natural gas for these functions is not deemed "necessary for full food and fiber production." Harvested wood in the form of logs or bolts is in a stable and storable form and is not subject to significant deterioration during extended periods of natural gas curtailments. The case of lumber or paper manufacturers, in this regard, could be contrasted to that of the grain dryer, vegetable processor, or cotton ginner. Logs can be kept wet to prevent cracking for extended periods of time. No evidence was found to indicate that wood must go through a manufacturing process in order to be converted into a stable and storable product. Furthermore, there was no indication in the public comments that SIC industries 24 and 26 have suffered product losses due to natural gas curtailments, which, for several industries within those two groups, have been substantial.

Textile operations (except for wool carding and topping SIC 2299), were not included in the Interim Final Rule for the following reasons: (1) cotton fiber is stabilized against deterioration in the ginning and compressing operations prior to the textile mill stage; (2) the statute's restriction of coverage to natural (as opposed to synthetic) fibers mitigates against coverage on grounds of administrative practicality; and (3) the Conference Report referred to an intention of Congress "to prevent unnecessary increases in the cost of *food* in this country." (Emphasis added.)

A reevaluation of public comments and relevant materials led to the conclusion that the use of natural gas in textile manufacturing operations (except for wool carding and topping in SIC 2299), although eligible for consideration on the basis of being a use for natural fiber processing, is not "necessary for full food and fiber production," and therefore should not be included in the certification list as an essential agricultural use.

In the definition of "full food and fiber production," as quoted above, fiber processing is included to the extent that resulting products are stable and storable. Full food and fiber production is clearly satisfied by inclusion of cotton ginning and compressing, since baled and compressed cotton is stable and storable, and is available for industrial use or export.

Wool carding and topping is analogous to ginning and compressing cotton in that it is necessary to prevent deterioration of the wool fiber. For this reason, it is determined that wool carding and topping (in SIC 2299) is necessary for full food and fiber production. Wool carding and topping, as included in the Interim Final Rule, is retained in the Final Rule.

The determination of "essential agricultural uses" pursuant to Section 401(f)(1), which is predicated upon a determination by the Secretary that for purposes of curtailment protection, a use of natural gas for certain eligible uses is necessary for full food and fiber production, should not be construed as any indication of what is or is not an "agricultural use" for purposes of other sections of the NGPA, notably Section 206.

III. Certification of Current Requirements

The Proposed Rule certified natural gas requirements as 100 percent of current requirements for each essential agricultural use as authorized by Section 401(c), NGPA: "The Secretary of Agriculture shall certify to the Secretary of Energy and the Commission the natural gas requirements (expressed as volumes or percentage of use) of persons (or classes thereof) for essential agricultural uses in order to meet the requirements of full food and fiber production."

The public was requested to comment specifically on the following issues related to requirements:

• Determination of amounts, including how a current method of determining natural gas requirements may be carried out;

• Relation to new agricultural facilities;

• Rendering the rule practicable and equitable to the maximum extent; and

• Facilitation of the USDA rule in assisting FERC alternate fuel determinations (Section 401(b), NGPA) to prevent avoidable delays in implementing the agricultural priority.

The public comments dealt with several important elements of the Secretary's responsibilities with respect to the volumetric component of this certification, including: (1) current or historical base method for certification; (2) categories and actual levels of natural gas requirements to be certified as necessary for full food and fiber production; and (3) detailed implementation procedures whereby the Secretary of Agriculture's certification of current requirements would be translated into facility-specific pipeline gas entitlements.

Volumetric requirements of large-scale users were treated precisely in the Interim Final Rule in order to specify more accurately the volumes of natural gas involved. A multiple-option, rolling base period approach, corrected to include natural gas not used due to curtailments of process and feedstock gas of plant shutdowns, was intended to provide full requirements of natural gas for essential agricultural users, in a manner conducive to effective implementation.

The USDA has continued to assess options available for the Final Rule since the March 1, 1979 publication of the Interim Final Rule. The proposed and interim final certifications and public comments have been reevaluated and the environmental impacts of options, including all public comments directed thereto, have been carefully considered.

The USDA has determined that specifications of natural gas requirements by using the base period approach contained in the Interim Final Rule would not be sufficiently flexible and responsive on a permanent basis to assure full food and fiber production in the event of significant increases in output levels or processing requirements brought about by changes in weather or other factors.

The Proposed Rule contemplated a current, rather than an historical base period, method for determining volumetric requirements, recognizing the vagaries of nature whereby energy demands unpredictably vary from season to season and year to year. The Interim Final Rule departed from this position somewhat for large, off-farm uses. Public comment on the Draft

Economic and Environmental Impact Statement included the contention that, although the draft statement recognized the biological nature of agricultural production, it failed to address adequately the impact of such fluctuations on the natural gas requirements of *all* essential agricultural uses. The Final Economic and Environmental Impact Statement assesses the ramifications of the biological nature of agriculture as reflected in fluctuations in the fertilizer industry, crop drying and food processing. The data indicates that USDA certification by means of a rolling base period would not be sufficiently flexible and responsive to provide for natural gas requirements necessary for full food and fiber production in all instances.

Section 401(c) of the NGPA expressly authorizes the Secretary of Agriculture to certify the natural gas requirements of essential agricultural users in terms of either volumes of percentages of use. The certification of volumetric requirements in the Interim Final Rule was designed to make the maximum use of the authority under Section 401(f) to define "essential agricular use" as "any use of natural gas . . . which the Secretary of Agriculture determines is *necessary* for full food and fiber production," (emphasis added) in order to avoid duplicate decisionmaking by the Secretary of Agriculture and the Federal Energy Regulatory Commission. Generally, the Interim Final Rule sought to harmonize the potentially overlapping responsibility of the FERC, in consultation with the Secretary of Agriculture, under 401(b), to determine whether a fuel other than natural gas is economically practicable and reasonably available as an alternative to a volume of use certified by the Secretary of Agriculture under Section 401(c) (in which case the protection against curtailment for that specific use would not apply), and of the Secretary of Agriculture under Section 401(f), to exclude from his initial certification any use of gas which he determines not "necessary" for full food and fiber production.

Reversion to the percentage certification of essential agricultural use requirements, as formulated in the Proposed Rule, shifts to FERC, in consultation with the Secretary of Agriculture, the initiative for the alternative fuel capability determinations, without undue duplicative decisionmaking.

Having duly considered the full public record, including all recent comments in the context of the statutory obligations of the Secretary of Agriculture pursuant to Section 401 of the NGPA, the USDA Final Rule contains the following variations from the Interim Final Rule regarding natural gas requirements of essential agricultural uses:

(1) The USDA Final Rule reverts to the position in the Proposed Rule of certifying 100 percent of current requirements as necessary for full food and fiber production. Implementation in the pipeline curtailment plans is within FERC statutory responsibility; the Secretary of Agriculture may intervene in any such proceedings as a matter of right.

(2) The USDA Final Rule reverts to the position in the Proposed Rule of not discriminating as to types of use, since 100 percent of current requirements is appropriate for all essential agricultural uses for purposes of the Secretary of Agriculture's certification. Process and feedstock uses only are certified for agricultural chemicals and animal feeds and food, as in the Interim Final Rule, pursuant to the directive in Section 401(f)(2) of the NGPA. The responsibility for implementing the new alternative fuels determination is assigned by Section 401(b) to the FERC, in consultation with the USDA.

The USDA Final Rule retains the languange of the Interim Final Rule in certifying uses on an equal basis within the classes of establishments identified in 7 CRF Section 2900.3, whether such uses are in existence on the effective date of this rule or come into existence thereafter. A new or expanded facility is equally necessary for full food and fiber production as an existing facility. Such facilities are constructed both in response to rising demand for food and natural fiber products and to replace obsolete, less efficient facilities as they are phased out of the production stream.

IV. Impact Analysis

USDA has prepared and filed with the Environmental Protection Agency, a Final Economic and Environmental Impact Statement (EEIS). The 30-day review period has been waived consistent with 40 CFR Section 1506.10(b)(2) which provides for publishing ". . . a decision on the final rule simultaneously with the publication of the notice of availability of the final environmental impact statement . . .", when rulemaking under the Administrative Procedures Act is involved. The Final EEIS assesses the economic and environmental consequences of alternative curtailment plans. Impacts on agriculture, affected industries, air quality, water quality, and biological resources are discussed. The estimates of volumes of natural gas affected by the USDA certification of essential agricultural uses were developed as maxima, with FERC not removing any natural gas from the agricultural priority via Section 401(b). The analysis in the Final EEIS found that the volumes affected under any of the options considered by the USDA are negligible when comparing increased natural gas use by agriculture with total use. The actual impact of the agricultural priority is indeterminate, as actions by FERC pursuant to Section 401(b) may reduce the volumes protected by the agricultural priority.

Single copies of the Final EEIS may be requested from USDA Office of Energy, Room 5173 South Agricultural Building, 12th and Independence Avenue, SW., Washington, DC 20250. The Final EEIS fully meets the requirements of the Council of Environmental Quality regulations for implementing the National Environmental Policy Act, 40 CFR Parts 1500–1508, as well as Executive Order 12044.

Notice is hereby given that the Office of Energy of the U.S. Department of Agriculture has prepared a Final Economic and Environmental Impact Statement in accordance with Section 102(2)(c) of the National Environmental Policy Act of 1969, in connection with the Final Rule on Certification of Essential Agricultural Uses of Natural Gas pursuant to Section 401 of the Natural Gas Policy Act of 1978.

Additional information may be secured on request, submitted to Dr. Weldon V. Barton, Director, Office of the Secretary, Office of Energy, U.S. Department of Agriculture, Room 5175 South Building, Washington, D.C. 20250. The Final Economic and Environmental Impact Statement may be obtained during regular business hours in Room 5175 South Agricultural Building, 14th and Independence, SW, Washington, D.C. The 30-day review period had been waived consistent with the provisions of the Council on Environmental Quality (EQ) regulations Section 1506.10(b)(2) which provides for publication of the notice of availability of the Final EEIS simultaneously with the Final Rule. This Final Economic and Environmental Impact Statement for the Final Rule on Certification of Essential Agricultural Uses of Natural Gas is effective as of May 14, 1979, the effective date of the Final Rule.

Part 2900 is hereby revised to read as set forth below:

PART 2900—ESSENTIAL AGRICULTURAL USES-NATURAL GAS POLICY ACT

Sec.
2900.1 General
2900.2 Definitions
2900.3 Essential Agricultural Uses
2900.4 Natural Gas Requirements
2900.5 Amendments
2900.6 Effective Date

Authority: Pub. L. 95-621, November 9, 1978.

§ 2900.1 General.

Section 401(c) of the Natural Gas Policy Act of 1978 (NGPA) requires the Secretary of Agriculture to determine the essential uses of natural gas, and to certify to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) the natural gas requirements, expressed either as volumes or percentages of use, of persons, or classes thereof, for essential agricultural uses in order to meet requirements of full food and fiber production. This rule covers establishments performing functions classed as essential agricultural uses whose natural gas supplies are distributed through the interstate pipeline systems even though such establishments may receive such gas directly from an intrastate pipeline or local distribution company. The rule provides to the Secretary of Energy (for purposes of Section 401(a) of the NGPA) and to the Federal Energy Regulatory Commission the following certifications:

(a) Essential agricultural *uses* of natural gas, expressed as classes of establishments that use gas for essential agricultural purposes; and

(b) Essential agricultural current *requirements* of natural gas, expressed as percentages of use.

§ 2900.2 Definitions.

(a) "Full food and fiber production" means the entire output of food and fiber produced for the domestic market, and for export, for building of reserves, and crops for soil building or conservation. This term also includes the processing of food and fiber into stable and storable products, and the maintenance of food quality after processing.

(b) "Establishment" means an economic unit, generally at a single physical location where business is conducted or where service or industrial operations are performed (for example, a factory, mill, store, mine, farm, sales office, or warehouse). (Note—This is the same definition used in the Standard Industrial Classification Manual, 1972 edition).

(c) "Essential Agricultural Use Establishment" means any Establishment, or the portion of an Establishment, which performs (or has the capability to perform) activities specified in § 2900.3.

(d) "Current Natural Gas Requirements" means the amount of natural gas required by an Essential Agricultural Use Establishment to perform the activities devoted to full food and fiber production.

§ 2900.3 Essential agricultural uses.

For purposes of Section 401(c) of the NGPA the following classes or portions of classes are certified as essential agricultural uses in order to meet the requirements of full food and fiber production:

Essential Agricultural Uses

Industry SIC No. and Industry Description

Food and Natural Fiber Production

01 Agricultural Production—Crops

02 Agricultural Production—Livestock Excluding 0272—Horses and Other Equines, and Nonfood Portions of 0279—Animal Specialties, Not Elsewhere Classified.

0723 Crop Preparation Services for Market, Except Cotton Ginning (see fiber processing).

4971 Irrigation Systems.

Fertilizer and Agricultural Chemicals

(Process and Feedstock Use Only)

1474 Potash, Soda, and Borate Materials.

1475 Phosphate Rock.

1477 Sulfur.

2819 Industrial Inorganic Chemicals, n.e.c. (Agricultural related only).

2865 Cyclic Crudes and Cyclic Intermediates, Dyes and Organic Pigments (Agricutural related only).

2869 Industrial Organic Chemicals, n.e.c. (Agricutural related only).

287 Agricultural Chemicals.

2899 Chemicals and Chemical Preparations, n.e.c. (salt-food and feed grade only).

3274 Lime (Agricultural lime only).

Food and Natural Fiber Processing-Food

20 Food and Kindred Products Except 2047—Dog, Cat and Other Pet Food, and 2048—Prepared Feeds and Feed Ingredients for Animals and Fowls, Not Elsewhere Classified.

Animal Feeds, and Food

(Process and Feedstock Use Only)

2047 Dog, Cat and Other Pet Food.

2048 Prepared Feeds and Feed Ingredients for Animals and Fowls, Not Elsewhere Classified.

Natural Fiber

0724 Cotton Ginning.

2141 Tobacco Stemming and Redrying.

2299 Textile Goods, n.e.c. (wool tops, combing and converting).

3111 Leather Tanning and Finishing.

Food Quality Maintenance—Food Packaging

2641 Paper Coating and Glazing (food related only).

2643 Bags, Except Textile (food related only).

2645 Die Cut Paper and Paperboard (food related only).

2646 Pressed and Molded Pulp Goods (food related only).

2649 Converted Paper Products (food related only).

2651 Folding Paperboard Boxes (food related only).

2653 Corrugated and Solid Fiber Boxes (food related only).

2654 Sanitary Food Containers.

2655 Fiber Cans, Tubes, Drums, and Similar Products (food related only).

3079 Miscellaneous Plastic Products (food related only).

3221 Glass Containers (food related only).

3411 Metal Cans (food related only).

3497 Metal Foil and Leaf (food related only).

Marketing and Distribution

4221 Farm Product Warehousing and Storage.

4222 Refrigerated Warehousing.

514 Groceries and Related Products.

5153 Farm Product Raw Materials—Grain.

54 Food Stores.

§ 2900.4 Natural gas requirements.

For purposes of Section 401(c), NGPA, the natural gas requirements for each Essential Agricultural Use Establishment, whether such Essential Agricultural Use Establishment is in existence on the effective date of this rule or comes into existence thereafter, are certified to be 100 percent of Current Natural Gas Requirements.

§ 2900.5 Amendments.

This rule may be amended by the Secretary of Agriculture from time to time. In accordance with 7 CFR § 1.28, requests for such amendments may be addressed to the Secretary of Agriculture.

§ 2900.6 Effective date.

This rule shall become effective on May 14, 1979.

Dated: May 10, 1979.

Jim Williams,

Acting Secretary of Agriculture.

[FR Doc. 79-15248. 5-11-79; 3:43 pm]

BILLING CODE 3410-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 308

Rules of Practice and Procedures

Correction

In FR Doc. 79-13288 appearing at page 25412 in the issue for Tuesday, May 1, 1979, the following correction is made. On page 25415, in § 308.6(a), in the 15th through the 17th lines, the words "or a party who elects to file an answer or exceptions," are deleted and reinserted in the 22nd line after the words "answer or exceptions,".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 78-EA-72; Amdt. 39-3471]

14 CFR Part 39

Airworthiness Directives; Canadair Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to Canadair CL-44D4 and CL-44J type airplanes, and requires an inspection and replacement where necessary of the end cap of the main landing gear actuator. The purpose of the inspection is to prevent interference with actuation of the main landing gear caused by failure of the end cap.

DATE: May 18, 1979. Compliance is required prior to U.S. airworthiness certification.

ADDRESSES: Canadair Service Bulletins may be acquired from the manufacturer at P.O. Box 6087, Montreal, Canada.

FOR FURTHER INFORMATION CONTACT: F. Lee, Systems & Equipment Section, AEA-213, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212-995-3372.

SUPPLEMENTARY INFORMATION: There had been a report of a failure of the subject end cap resulting in an inability to actuate the main landing gear. The failure of the cap resulted from cracks. Since this deficiency has been corrected in the only two known U.S. registered airplanes, the rule is effective as to all future applications for U.S. registration and thus, notice and public procedure hereon are unnecessary and the rule may be made effective in less than 30 days since it does not impose a burden on any person.

Adoption of the Amendment

Accordingly, and pursuant to the authority delegated to me by the Administrator, Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by issuing a new airworthiness directive, as follows:

CANADAIR: Applies to all Canadair Models CL-44D4 and CL-44J certificated in all categories.

Compliance required prior to application for U.S. registration and airworthiness certification.

To preclude possible failure of the main landing gear actuating system, accomplish the following:

(a) Inspect the end caps of the main landing gear actuator, Jarry Hydraulics, P/N 3650-3 or -7 (Canadair Assembly numbers 44-75129-800 or -802 respectively) for cracks using the dye penetrant method or an FAA approved equivalent inspection.

(b) If cracks are found, replace end cap with a crack free cap prior to next flight.

Effective Date: This amendment is effective May 18, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89)

Issued in Jamaica, New York, on May 4, 1979.

Louis J. Cardinali,

Acting Director, Eastern Region.

[FR Doc. 79-15224 Filed 5-16-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Parts 71, 73, and 75

Extension of VOR Federal Airway

Correction

In 79-FR Doc. 79-13720 appearing in the issue of Thursday, May 3, 1979 on page 25834, make the following correction. On page 25835 the Docket number should have read, [Docket No. 78-NW-20].

14 CFR Part 97

[Docket No. 19154; Amdt. No. 1138]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:
1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAP's mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.00.

FOR FURTHER INFORMATION CONTACT: Lewis O. Ola, Flight Procedures and