Done at Washington, D.C., on: September 21, 1979.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[FR Doc. 79-29957 Filed 9-27-79; 8:45 am]

BILLING CODE 3410-DM-M

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9 CFR Parts 331 and 381

Designation of the Commonwealth of the Northern Mariana Islands Under the Federal Meat Inspection Act and the Poultry Products Inspection Act for Special Purposes

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: The Secretary of Agriculture hereby designates the Commonwealth of the Northern Mariana Islands under section 205 of the Federal Meat Inspection Act and section 11(e) of the Poultry Products Inspection Act. The designations are necessary to carry out the Secretary's responsibilities under the Acts.

DATES: Effective date of this document: September 28, 1979. Effective date of application of regulation: October 29, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. J. K. Payne, Director, Federal-State Relations Staff, Field Operations, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202/447-6313).

SUPPLEMENTARY INFORMATION: Pursuant to Pub. L. 94-241 (90 Stat. 263 *et seq.*) and Presidential Proclamation 4534 (October 24, 1977), the provisions of the Federal Meat Inspection Act and the Poultry Products Inspection Act have been made applicable to the Commonwealth of the Northern Mariana Islands. Sections 202, 203, and 204 of the Federal Meat Inspection Act (21 U.S.C. 642, 643, 644) provide for recordkeeping, access, and related requirements; registration requirements; and regulation of transactions involving dead, dying, disabled, or diseased livestock of the specified kinds, or parts of the carcasses of such animals that died otherwise than by slaughter, with respect to operators engaged in specified kinds of business in or for "commerce" as defined in the Act. Similar provisions with respect to poultry and poultry products are contained in sections 11 (b), (c), and (d) of the Poultry Products Inspection Act (21 U.S.C. 460 (b), (c), and (d)). Section 205 of the Federal Meat Inspection Act and section 11(e) of the Poultry Products Inspection Act (21 U.S.C. 645, 460(e)) authorize the Secretary of Agriculture to exercise authorities under the aforesaid sections with respect to persons, firms, and corporations engaged in the specified kinds of business but not in or for "commerce" in any State or organized territory (including the Commonwealth of the Northern Mariana Islands) when he determines, after consultation with an appropriate advisory committee, that the State or Territory does not have at least equal authority under its laws or is not exercising such authority in a manner to effectuate the purposes of the Acts.

The Governor of the Commonwealth of the Northern Mariana Islands has advised this Department that the Commonwealth of the Northern Mariana Islands does not desire to develop and implement a Commonwealth meat or poultry program with respect to matters specified in the aforesaid sections.

The Secretary, after consultation with the appropriate advisory committee, has now determined that the Commonwealth of the Northern Mariana Islands is not exercising, in a manner to effectuate the purposes of the said Acts, with respect to intrastate businesses, wholly within the Commonwealth of the Northern Mariana Islands, authorities at least equal to those under sections 202, 203, and 204 of the Federal Meat Inspection Act and section 11 (b), (c), and (d) of the Poultry Products Inspection Act, including the Secretary or his representatives being afforded access to such places of business and the facilities, inventories, and records thereof. Therefore, the Commonwealth of the Northern Mariana Islands is hereby designated under section 205 of the Federal Meat Inspection Act and section 11(e) of the Poultry Products Inspection Act for the exercise of the specified authorities with respect to businesses, wholly within the Commonwealth of the Northern Mariana Islands, and hereafter sections 202, 203, and 204 of the Federal Meat Inspection Act and section 11 (b), (c), and (d) of the Poultry Products Inspection Act shall apply as hereinafter provided, to persons, firms, and corporations engaged in the kinds of business specified in said sections, but not in or for commerce, to the same extent and in the same manner as if they were engaged in such business in or for commerce and the transactions involved were in commerce.

Accordingly, the table in § 331.6 of the Federal meat inspection regulations (9 CFR 331.6) is amended as follows:

§ 331.6 [Amended]

1. In the "State" column, "Northern Mariana Islands" is added in alphabetical order in all three places.
2. In the "Effective date of designation" column, October 29, 1979, is added on the line with "Northern Mariana Islands" in all three places.

(Secs. 21 and 205, 34 Stat. 1260, as amended; 81 Stat. 584, 21 U.S.C. 621, 645; 42 FR 35625-35632)

Further, the table in § 381.224 of the poultry products inspection regulations (9 CFR 381.224) is amended as follows:

§ 381.224 [Amended]

1. In the "State" column, "Northern Mariana Islands" is added in alphabetical order in all three places.
2. In the "Effective date" column, October 29, 1979, is added on the line with "Northern Mariana Islands" in all three places.

(Secs. 11(e) and 14, 71 Stat. 441, as amended, 82 Stat. 791, 21 U.S.C. 460(e), 463; 42 FR 35625-35632)

After consulting with the appropriate advisory committee, Donald L. Houston, Administrator, Food Safety and Quality Service, has determined that it is necessary to designate the Commonwealth of the Northern Mariana Islands immediately in accordance with section 205 of the Federal Meat Inspection Act and section 11(e) of the Poultry Products Inspection Act, in order to carry out the Secretary's responsibilities under the Acts. Therefore, it does not appear that any additional relevant information would be made available to the Secretary by an impact statement or by public participation in this rulemaking proceeding. Accordingly, under the administrative procedures provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedures are impracticable and contrary to public interest.

Done at Washington, D.C., on: September 21, 1979.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[FR Doc. 79-29958 Filed 9-27-79; 8:45 am]

BILLING CODE 3410-DM-M

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9 CFR Parts 331 and 381

Designation of the State of New Hampshire Under the Federal Meat Inspection Act and the Poultry Products Inspection Act for Special Purposes

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: The Secretary of Agriculture hereby designates the State of New Hampshire under section 205 of the Federal Meat Inspection Act and section 11(e) of the Poultry Products Inspection Act. The designations are necessary to carry out the Secretary's responsibilities under the Acts.

DATES: Effective date of this document: September 28, 1979. Effective date of application of regulation: October 29, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. J. K. Payne, Director, Federal-State Relations Staff, Field Operations, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250 (202/447-6313).

SUPPLEMENTARY INFORMATION: Sections 202, 203, and 204 of the Federal Meat Inspection Act (21 U.S.C. 642, 643, 644) provide for recordkeeping, access, and related requirements; registration requirements; and regulation of transactions involving dead, dying, disabled, or diseased livestock of the specified kinds, or parts of the carcasses of such animals that died otherwise than by slaughter, with respect to operators engaged in specified kinds of business in or for "commerce" as defined in the Act. Similar provisions with respect to poultry and poultry products are contained in sections 11 (b), (c), and (d) of the Poultry Products Inspection Act (21 U.S.C. 460 (b), (c), and (d)). Section 205, of the Federal Meat Inspection Act and section 11 (e) of the Poultry Products Inspection Act (21 U.S.C. 645, 460(e)), authorize the Secretary of Agriculture to exercise authorities under the aforesaid sections with respect to persons, firms, and corporations engaged in the specified kinds of business but not in or for "commerce" in any State or organized Territory when he determines, after consultation with an appropriate advisory committee, that the State or territory does not have at least equal authority under its laws or is not exercising such authority in a manner to effectuate the purposes of the Acts.

Representatives of the Governor of New Hampshire have advised this Department that New Hampshire does not maintain a meat or poultry program with respect to matters specified in the aforesaid sections.

The Secretary, after consultation with the appropriate advisory committee, has now determined that the State of New Hampshire is not exercising, in a manner to effectuate the purposes of the said Acts, with respect to intrastate businesses, authorities at least equal to those under sections 202, 203, and 204 of the Federal Meat Inspection Act and sections 11 (b), (c), and (d) of the Poultry Products Inspection Act, including the Secretary or his representatives being afforded access to such places of business and the facilities, inventories, and records thereof. Therefore, New Hampshire is hereby designated under section 205 of the Federal Meat Inspection Act and section 11(e) of the Poultry Products Inspection Act for the exercise of the specified authorities with respect to intrastate businesses, and hereafter sections 202, 203, and 204 of the Federal Meat Inspection Act and sections 11 (b), (c), and (d) of the Poultry Products Inspection Act shall apply as hereinafter provided, to persons, firms, and corporations engaged in the kinds of business specified in said sections, but not in or for commerce, to the same extent and in the same manner as if they were engaged in such business in or for commerce and the transactions involved were in commerce.

Accordingly, the table in § 331.6 of the Federal meat inspection regulations (9 CFR 331.6) is amended as follows:

§ 331.6 [Amended]

1. In the "State" column, "New Hampshire" is added in alphabetical order in all three places.
2. In the "Effective date of designation" column, October 29, 1979, is added on the line with "New Hampshire" in all three places.

(Secs. 21 and 205, 34 Stat. 1260, as amended; 81 Stat. 584, 21 U.S.C. 621, 645; 42 FR 35625-35632)

Further, the table in § 381.224 of the poultry products inspection regulations (9 CFR 381.224) is amended as follows:

§ 381.224 [Amended]

1. In the "State" column, "New Hampshire" is added in alphabetical order in all three places.
2. In the "Effective date" column, October 29, 1979, is added on the line with "New Hampshire" in all three places.

(Secs. 11(e) and 14, 71 Stat. 441, as amended; 82 Stat. 791, 21 U.S.C. 460(e), 463; 42 FR 35625-35632)

After consulting with the appropriate advisory committee, Donald L. Houston, Administrator, Food Safety and Quality Service, has determined that it is necessary to designate the State of New Hampshire immediately in accordance with section 205 of the Federal Meat Inspection Act and section 11(e), of the Poultry Products Inspection Act, in order to carry out the Secretary's responsibilities under the Acts. Therefore, it does not appear that any additional relevant information would be made available to the Secretary by an impact statement or by public participation in this rulemaking proceeding. Accordingly, under the administrative procedures provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedures are impracticable and contrary to public interest.

Done at Washington, D.C. on: September 21, 1979.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[FR Doc. 79-29959 Filed 9-27-79; 8:45 am]

BILLING CODE 3410-DM-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 9

Privacy Act Regulations; Effective Exemptions

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission has established in § 9.95 of 10 CFR Part 9, exemptions as provided under the Privacy Act of 1974. This amendment of the Commission's regulation "Public Records" exempts from certain requirements of the Privacy Act portions of a new system of records, "Special Inquiry File."

EFFECTIVE DATE: October 29, 1979.

FOR FURTHER INFORMATION CONTACT: J. M. Felton, Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301-492-7211.

SUPPLEMENTARY INFORMATION: On July 27, 1979, the Commission published a notice in the **Federal Register** (44 FR 44309) to establish a proposed new system of records, identified as Special Inquiry File, NRC-33. On August 16, 1979, the Commission published in the **Federal Register** (44 FR 47950) a proposed amendment to § 9.95 of 10 CFR Part 9 to exempt portions of system of records NRC-33 from certain requirements of the Privacy Act. The notice invited public comment on the proposed amendment by September 17, 1979. No comments were received.

Specific exemptions from the requirements of the Privacy Act pertaining to proposed NRC-33 are intended to prevent access to (a) information classified pursuant to

Executive Order 12065 and exempted pursuant to 5 U.S.C. 552a(k)(1); (b) investigatory material compiled for law enforcement purposes exempted pursuant to 5 U.S.C. 552a(k)(2); and (c) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts or access to classified information exempted pursuant to 5 U.S.C. 552a(k)(5). The text of the amendment is identical to the proposed rule published on August 16.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552, 552a, and 553 of Title 5 of the United States Code, notice is hereby given of the adoption of the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 9.

1. Section 9.95 of 10 CFR Part 9 is amended by adding a new paragraph (n) to read as follows:

§ 9.95 Specific exemptions.

Pursuant to 5 U.S.C. 552a(k), portions of the following NRC systems of records are exempt from 5 U.S.C. 552a(c)(3); (d); (e)(1); (e)(4)(G), (H), and (I) and (f) and are subject to the provisions of § 9.61 of this part;

* * * * *

(n) Special Inquiry File.

* * * * *

(Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); Sec. 201, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 5841); 5 U.S.C. 552a.

Dated at Bethesda, MD this 21st day of September 1979.

For the Nuclear Regulatory Commission.

Lee V. Gossick,

Executive Director for Operations.

[FR Doc. 79-30171 Filed 9-27-79; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 219

[Docket No. R-0243]

Regulation S; Reimbursement to Financial Institutions for Assembling or Providing Financial Records

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final regulation.

SUMMARY: The Board of Governors of the Federal Reserve System has adopted a new regulation required by section 1115 of the Right to Financial Privacy Act (12 U.S.C. § 3415) that provides rates and conditions for reimbursement of reasonably necessary costs, directly incurred by financial institutions in assembling or providing customer financial records to a federal government authority.

EFFECTIVE DATE: October 1, 1979.

FOR FURTHER INFORMATION CONTACT: Mary Ellen A. Brown, Senior Counsel, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452-3608).

SUPPLEMENTARY INFORMATION: On August 8, 1979, the Board of Governors of the Federal Reserve System proposed a regulation (to be known as Regulation S) for reimbursement of reasonably necessary costs directly incurred by financial institutions, to search for, reproduce, and transport financial records sought by a federal authority, and invited public comments on this proposal (44 F.R. 46475). Comments were invited particularly about how the reimbursement should be set and how it could be permitted to vary over time.

As background information, the Right to Financial Privacy Act of 1978 (the "Act") restricts federal government access to individual customers' financial records maintained by financial institutions, and requires that, with certain exceptions, federal authorities seeking disclosure of these records must follow prescribed procedures. Access to or disclosure of these financial records must generally be pursuant to one of the following procedures authorized by the Act: (1) valid written customer authorization; (2) administrative summons or subpoena; (3) valid search warrant; (4) judicial subpoena; or (5) formal written request. However, emergency access is also authorized in certain situations, as is access pursuant to a grand jury subpoena or for Secret Service or foreign intelligence activities. The Act also restricts transfer of financial information obtained under the Act from one federal agency to another.

The Act does not cover financial records of corporations or of partnerships comprised of more than five individuals.

Except where access is sought pursuant to a search warrant or a grand jury subpoena, or in an emergency, or for Secret Service or foreign intelligence purposes, the bank customer is also given advance notice of his or her rights to challenge the federal government's access, and advice about how to effectuate these challenge rights.

A financial institution is also generally prohibited from releasing a customer's financial records until the federal agency seeking the records certifies in writing to the financial institution that it has fully complied with the Act.

Various exceptions to the Act's requirements are provided, including one that exempts the Board and other federal financial supervisory agencies from these restrictions in the exercise of their supervisory, regulatory, or monetary functions.

Civil penalties, injunctive relief, and employee disciplinary proceedings are authorized as remedies for violations of the Act.

The comment period for proposed Regulation S was announced as closing September 10, 1979. Because of recent delays in mail deliveries, this period was extended informally to the close of business September 12, 1979. A total of 108 letters of comment concerning the proposed regulation were received by that deadline. The Board considered the proposed regulation in light of the comments received and, in several instances, changed the proposal in response to comments received. Aspects of the final regulation that differ significantly from the proposed regulation are summarized below:

Rate of reimbursement for search and processing time is increased to $10 per hour per person, computed on the basis of $2.50 per quarter hour, limited to the total amount of personnel time spent in locating, retrieving, reproducing, packaging, and preparing for shipment documents or information required or requested by the government authority.

Reimbursement for reproduction of documents is increased to $0.15 per page.

The response to the Board's particular request about a variable rate elicited 28 favorable comments out of the 108 total responses. An additional 11 comments suggested periodic or annual review of the rates set. Another 3 comments suggested a sliding scale, a form of variable rate, to vary with the time limit and scope of the work required. Thus, in all, some 42 comments favored either periodic review of rates or some form of a variable rate.

Certain technical changes were also made in this final regulation.

Financial institutions are reminded to keep an accurate record of personnel time, computer costs, number of reproductions made, and transportation costs, by each request, and to include on the itemized bill or invoice the name of the customer to whom it relates. After a financial institution receives a Certificate of Compliance with the Act from the goverment authority seeking access to financial records, the financial institution may then submit an itemized bill or invoice to that federal authority. If the financial institution does not receive a Certificate of Compliance because the federal agency has withdrawn its request for disclosure or a customer has revoked his or her authorization, or because a customer has successfully challenged disclosure to the federal agency, the financial institution may submit an itemized bill or invoice for reasonably necessary costs directly incurred in assembling financial records prior to the time that the federal agency notifies it that its request is withdrawn or defeated.

Financial institutions are also reminded that the statute provides eleven types of exceptions from cost reimbursement which are incorporated into this regulation. Reimbursement for financial records sought pursuant to any of these exceptions is, accordingly, also excepted from this regulation.

Financial institutions should also be aware that just as the Act provides certain exceptions to its reimbursement requirement, it also provides exceptions to the Certificate of Compliance requirement. Thus, financial institutions will not receive a Certificate of Compliance when financial records are sought by a financial supervisory agency (12 U.S.C. § 3413(b); or for federal litigation (12 U.S.C. § 3413(e)); or for agency adjudicative proceedings (12 U.S.C. § 3413(f); or pursuant to a grand jury subpoena or court order (12 U.S.C. § 3413(i)); or by the Secret Service or for foreign intelligence activities (12 U.S.C. § 3414(a)).

Regulation S does not address the issue of internal procedures for federal agencies because this issue is expected to be resolved by agencies' internal audit procedures. Comments were received urging that agencies provide a uniform time limit for the submission of invoices and for prompt payment of invoices; and that agencies seek to develop and utilize a uniform invoice for payment. However, the Board regards it as beyond the scope of its responsibility to prescribe detailed internal procedures for other federal agencies to follow, except where such procedures have been developed through common agreement with and by other federal agencies.

This regulation is issued pursuant to 5 U.S.C. § 553, 12 CFR § 262.2 and in accordance with the Board's Statement of Policy Regarding Expanded Rulemaking Procedures (44 Fed. Reg. 3957). Since the regulation will reduce cost burdens to financial institutions by reimbursing them for searching for and reproducing customers' financial records as required or requested by the federal government or as authorized by the customer, and in view of the fact that the regulation must be adopted by October 1, 1979, expedited rulemaking procedures were followed in issuing this regulation, in accordance with the Board's Policy Statement. Since the Right to Financial Privacy Act requires the Board to establish, by regulation, the rates and conditions of cost reimbursement, nonregulatory alternatives were not considered during planning of these regulations.

Under the authority of section 1115 of the Right to Financial Privacy Act of 1978, 12 U.S.C. § 3415, the Board amends Title 12 of the Code of Federal Regulations by adding a new Part 219 (to be known as Regulation S) to read as follows:

Regulation S

PART 219—REIMBURSEMENT TO FINANCIAL INSTITUTIONS FOR ASSEMBLING OR PROVIDING FINANCIAL RECORDS

Sec.

Authority: 12 U.S.C. 3415.

§ 219.1 Authority, purpose and scope.

This Part is issued by the Board of Governors of the Federal Reserve System under section 1115 of the Right to Financial Privacy Act of 1978 (the "Act") (12 U.S.C. § 3415). It establishes the rates and conditions for reimbursement of reasonably necessary costs directly incurred by financial institutions in assembling or providing customer financial records to a government authority.

§ 219.2 Definitions.

For the purposes of this Part, the following definitions shall apply:

(a) "Financial institution" means any office of a bank, savings bank, card issuer as defined in section 103 of the Consumers Credit Protection Act (15 U.S.C. 1602(n)), industrial loan company, trust company, savings and loan, building and loan, or homestead association (including cooperative banks), credit union, or consumer finance institution, located in any State or territory of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, or the Virgin Islands.

(b) "Financial record" means an original of, a copy of, or information known to have been derived from, any record held by a financial institution pertaining to a customer's relationship with the financial institution.

(c) "Government authority" means any agency or department of the United States, or any officer, employee or agent thereof.

(d) "Person" means an individual or a partnership of five or fewer individuals.

(e) "Customer" means any person or authorized representative of that person who utilized or is utilizing any service of a financial institution, or for whom a financial institution is acting or has acted as a fiduciary, in relation to an account maintained in the person's name. "Customer" does not include corporations or partnerships comprised of more than five persons.

(f) "Directly incurred costs" means costs incurred solely and necessarily as a consequence of searching for, reproducing or transporting books, papers, records, or other data, in order to comply with legal process or a formal written request or a customer's authorization to produce a customer's financial records. The term does not include any allocation of fixed costs (overhead, equipment, depreciation, etc.). If a financial institution has financial records that are stored at an independent storage facility that charges a fee to search for, reproduce, or transport particular records requested, these costs are considered to be directly incurred by the financial institution.

§ 219.3 Cost reimbursement.

Except as hereinafter provided, a government authority requiring or requesting access to financial records pertaining to a customer shall pay to the financial institution that assembles or provides the financial records a fee for reimbursement of reasonably necessary costs which have been directly incurred according to the following schedule:

(a) *Search and processing costs.* (1) Reimbursement of search and processing costs shall be the total amount of personnel direct time incurred in locating and retrieving, reproducing, packaging and preparing financial records for shipment.

(2) The rate for search and processing costs is $10 per hour per person, computed on the basis of $2.50 per quarter hour or fraction thereof, and is limited to the total amount of personnel time spent in locating and retrieving documents or information or reproducing or packaging and preparing documents for shipment where required or requested by a government authority. Specific salaries of such persons shall not be included in search costs. In addition, search and processing costs do not include salaries, fees, or similar costs for analysis of material or for managerial or legal advice, expertise, research, or time spent for any of these activities. If itemized separately, search and processing costs may include the

actual cost of extracting information stored by computer in the format in which it is normally produced, based on computer time and necessary supplies; however, personnel time for computer search may be paid for only at the rate specified in this paragraph.

(b) *Reproduction costs.* (1) Reimbursement for reproduction costs shall be for costs incurred in making copies of documents required or requested.

(2) The rate for reproduction costs for making copies of required or requested documents is 15 cents for each page, including copies produced by reader/printer reproduction processes. Photographs, films, and other materials are reimbursed at actual cost.

(c) *Transportation costs.* Reimbursement for transportation costs shall be for (1) necessary costs, directly incurred, to transport personnel to locate and retrieve the information required or requested; and (2) necessary costs, directly incurred solely by the need to convey the required or requested material to the place of examination.

§ 219.4 Exceptions.

A financial institution is not entitled to reimbursement under the Act for costs incurred in assembling or providing the following financial records or information:

(a) *Security interests, bankruptcy claims, debt collection.* Any financial records provided as an incident to perfecting a security interest, proving a claim in bankruptcy, or otherwise collecting on a debt owing either to the financial institution itself or in its role as a fiduciary.

(b) *Government loan programs.* Financial records provided in connection with a government authority's consideration or administration of assistance to a customer in the form of a government loan, loan guaranty, or loan insurance program; or as an incident to processing an application for assistance to a customer in the form of a government loan, loan guaranty, or loan insurance agreement; or as an incident to processing a default on, or administering, a government-guaranteed or insured loan, as necessary to permit a responsible government authority to carry out its responsibilities under the loan, loan guaranty, or loan insurance agreement.

(c) *Nonidentifiable information.* Financial records that are not identified with or identifiable as being derived from the financial records of a particular customer.

(d) *Financial supervisory agencies.* Financial records disclosed to a financial supervisory agency in the exercise of its supervisory, regulatory, or monetary functions with respect to a financial institution.

(e) *Internal Revenue summons.* Financial records disclosed in accordance with procedures authorized by the Internal Revenue Code.

(f) *Federally required reports.* Financial records required to be reported in accordance with any federal statute or rule promulgated thereunder (such as the Bank Secrecy Act).

(g) *Government civil or criminal litigation.* Financial records sought by a government authority under the Federal Rules of Civil or Criminal Procedure or comparable rules of other courts in connection with litigation to which the government authority and the customer are parties.

(h) *Administrative agency subpoenas.* Financial records sought by a government authority pursuant to an administrative subpoena issued by an administrative law judge in an adjudicatory proceeding subject to section 554 of Title 5, United States Code, and to which the government authority and the customer are parties.

(i) *Identity of accounts in limited circumstances.* Financial information sought by a government authority, in accordance with the Right to Financial Privacy Act procedures and for a legitimate law enforcement inquiry, and limited only to the name, address, account number and type of account of any customer or ascertainable group of customers associated (1) with a financial transaction or class of financial transactions, or (2) with a foreign country or subdivision thereof in the case of a government authority exercising financial controls over foreign accounts in the United States under section 5(b) of the Trading With the Enemy Act (50 U.S.C. App. 5(b)); the International Emergency Economic Powers Act (Title II, Pub. L. 95–223); or section 5 of the United Nations Participation Act (22 U.S.C. 287(c).

(j) *Investigation of a financial institution or its noncustomers.* Financial records sought by a government authority in connection with a lawful proceeding, investigation, examination, or inspection directed at the financial institution in possession of such records or at a legal entity which is not a customer.

(k) *General Accounting Office requests.* Financial records sought by the General Accounting Office pursuant to an authorized proceeding, investigation, examination or audit directed at a government authority.

(l) *Securities and Exchange Commission requests.* Until November 10, 1980, financial records sought by the Securities and Exchange Commission.

§ 219.5 Conditions for payment.

(a) *Limitations.* Payment for reasonably necessary, directly incurred costs to financial institutions shall be limited to material required or requested.

(b) *Separate consideration of component costs.* Payment shall be made only for costs that are both directly incurred and reasonably necessary. In determining whether costs are reasonably necessary, search and processing, reproduction, and transportation costs shall be considered separately.

(c) *Compliance with legal process, request, or authorization.* No payment shall be made until the financial institution satisfactorily complies with the legal process or formal written request, or customer authorization, except that in the case where the legal process or formal written request is withdrawn, or the customer authorization is revoked, or where the customer successfully challenges access by or disclosure to a government authority, the financial institution shall be reimbursed for reasonably necessary costs directly incurred in assembling financial records required or requested to be produced prior to the time that the government authority notifies the institution that the legal process or request is withdrawn or defeated, or that the customer has revoked his or her authorization.

(d) *Itemized bill or invoice.* No payment shall be made unless the financial institution submits an itemized bill or invoice showing specific details concerning the search and processing, reproduction, and transportation costs.

§ 219.6 Payment procedures.

(a) *Notice to submit invoice.* Promptly following a government authority's service of legal process or request, the government authority shall notify the financial institution that an itemized bill or invoice must be submitted for payment and shall furnish an office address for this purpose.

(b) *Special notice.* If a government authority withdraws the legal process or formal written request, or if the customer revokes his or her authorization, or if the legal process or request has been successfully challenged by the customer, the government authority shall promptly notify the financial institution of these facts, and shall also notify the financial institution that the itemized bill or invoice must be submitted for payment of costs incurred prior to the time that the financial institution receives this notice.

§ 219.7 Effective date.

This regulation shall become effective October 1, 1979.

By order of the Board of Governors, effective October 1, 1979.

Griffith L. Garwood,

Deputy Secretary.

[FR Doc. 79-30375 Filed 9-28-79; 8:45 am]

BILLING CODE 6210-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

[Revision 13, Amdt. 29]

Small Business Size Standards: Increase Size Standard of Small Business Concerns for Assistance by Small Business Investment Companies or by Development Companies

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This rule increases the size standard for assistance to small business concerns by small business investment companies or by development companies. The previous size standard defined a small concern as one which does not have assets exceeding $9.0 million, does not have net worth in excess of $4.0 million, and does not have after-tax average net income for the preceding two (2) years in excess of $400,000. Alternatively, a small concern is one which qualifies under § 121.3-10 (loan size standard).

This rule makes a change in the financial measures used in establishing small business size by deleting the assets size test. Further, this rule increases the net worth test to $6.0 million and increases the net income test to $2.0 million. The alternative of using Section 121.3-10 is not changed.

EFFECTIVE DATE: September 28, 1979.

FOR FURTHER INFORMATION CONTACT: John L. Werner, (202) 653-6672.

SUPPLEMENTARY INFORMATION:

Deletion of Assets Size as a Measure. Using a uniform assets size test for all industries is not appropriate due to the considerable technological contrasts between industries.

The two more commonly used measures of inter-industry technological differences are the ratio of capital to production worker and the ratio of capital to output. Capital for this purpose is considered tangible assets used in the production of output without regard to the financing of such assets. Seldom do industries have identical technologies and thus seldom does the absolute level of assets tell much about relative size. In short, a firm with $25.0 million in assets in one industry could be small while one of the same assets size in another industry could be large.

It is for this reason that the rule deletes the assets test as a measure of size for the purpose of assistance by small business investment companies or development companies.

Increase in Net Worth Standard

Inflation has considerably eroded the value of the dollar since August 1975 when the SBIC size standards were last adjusted. The price deflator for Nonresidential Fixed Investment as it appears in the Gross National Product accounts shows that prices for that sector have increased 2.2 times (through 1978) since the inception of the SBIC program. This multiplier applied to the program's original net worth size standard produces a price adjusted net worth standard of $5.5 million through 1978.

This rule increases the net worth standard to $6.0 million to adjust for inflation through the end of 1978 and forward through the end of 1979.

Increase in Net Income Standard

Recent studies and Congressional hearings indicate that after-tax earnings of over $2.0 million is a minimum level to consider for public offerings of a firm's securities, all other conditions being ideal.

There is a substantial gap between the net income size standard of $400,000 and the $2.0 minimum public offering level and this rule provides standards to fill that gap.

The increased size standard shall also be applicable to the definition of small business for the purpose of SBA pollution control guarantee assistance financings under 13 CFR Part 111, Pollution Control (which utilizes the same size standards by reference under Section 121.3-16).

All public comments which were received on the proposed amendment (44 FR 36195) were favorable, and indicated the amendment would aid additional small firms having difficulty obtaining necessary financing.

Accordingly, pursuant to Sections 3 and 5(b)(6) of the Small Business Act (15 U.S.C. 632, 634), the Small Business Administration amends Part 121 of its Regulations (13 CFR Part 121) by amending § 121.3-11 to read as follows:

§ 121.3-11 Definition of small business for assistance by small business investment companies or by development companies.

A small business concern for the purpose of receiving financial or other assistance from small business investment companies or development companies is one which:

(a) Together with its affiliates, is independently owned and operated, is not dominant in its field of operation, does not have net worth in excess of $6 million, and does not have an average net income, after Federal income taxes, for the preceding 2 years in excess of $2 million (average net income to be computed without benefit of any carryover loss); or

(b) Qualifies as a small business concern under § 121.3-10.

Dated: September 21, 1979.

A. Vernon Weaver,

Administrator.

[FR Doc. 79-30112 Filed 9-27-79; 8:45 am]

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CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1500

Aluminized Polyester Film Kites; Banning as Hazardous Article

AGENCY: Consumer Product Safety Commission.

ACTION: Final regulation.

SUMMARY: The Commission is issuing a regulation banning aluminized polyester film kites because such kites are capable of conducting electricity and are susceptible to contact with high voltage electric power lines. This regulation is intended to reduce the risk of serious injury or death by electric shock created when an aluminized polyester film kite contacts a power line and conducts an electric current through the aluminized surface of a kite or its tail to a person in contact with the kite or its tail; and the risk of injury to persons in the vicinity of electric power lines which could break and fall as a result of an electric arc caused by the kites.

EFFECTIVE DATE: October 29, 1979.

FOR FURTHER INFORMATION CONTACT: David Thome, Division of Regulatory Management, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207, (301) 492-6400.

SUPPLEMENTARY INFORMATION:

Background and Proposal

In the Federal Register of January 26, 1979 (44 FR 5459), the Consumer Product Safety Commission proposed for public