USDA, Washington, D.C. 20250 (202) 447-5053.

SUPPLEMENTARY INFORMATION: This emergency final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "non-significant." Mr. Miller determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this emergency final action because the October 15th deadline has already passed and changing the date to November 1, does not permit enough time for response. Moreover, this adjustment of the time period for exchanging excess oil does not impose any hardship on either producers or handlers.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency final action are impracticable and contrary to the public interest; and good cause if found for making this emergency final action effective less than 30 days after publication of this document in the **Federal Register.**

Changing the date for allowing producers to transfer excess oil from October 15 to November 1 is pursuant to Marketing Order No. 985, regulating the handling of spearmint oil produced in the Far West. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

Currently § 985.56(a) required that producers transfer excess spearmint oil to fill other producers' deficiencies in their annual allotments before October 15. Section 985.56(a) also provides that the Committee, with the approval of the Secretary, may establish such other date as it deems necessary to administer this program. The Committee found that the October 15 date is too early, because harvesting and distilling oil can occur after October 15. Thus, the Committee unanimously recommended that that date be changed to November 1.

After consideration of all relevant matter presented including the information and recommendation submitted by the Committee, and other information, it is further found that changing the date for allowing producers to transfer excess oil to fill other producers' deficiencies, as hereinafter set forth, would tend to effectuate the declared policy of the act.

Therefore, a new subpart is added to Part 985 to read as follows:

Administrative Rules and Regulations

§ 985.156 Transfer of excess oil by producers.

Before November 1 a producer, following notification of the Committee, may transfer excess oil to another producer to enable that producer to fill a deficiency in that producer's annual allotment.

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

Dated: October 24, 1980, to become effective November 1, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 80-33803 Filed 10-29-80; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 991

Hops of Domestic Production; Revision of Salable Quantity and Allotment Percentage for the 1980-81 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Emergency final rule.

SUMMARY: This emergency final rule increases the quantity of hops that may be freely marketed from the 1980 crop. This action is taken under the marketing order for domestic hops to promote orderly marketing conditions.

EFFECTIVE DATE: Fully effective for the 1980-81 marketing year, which began August 1, 1980.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C., (202) 447-5053. Actions of this kind were anticipated under the provisions of 7 CFR 991.36 and are specifically considered in the Final Impact Statement prepared for that action. Thus, the Final Impact Statement describing the options considered in developing this emergency final rule and the impact of implementing each option is available on request from Mr. Miller.

SUPPLEMENTARY INFORMATION: This emergency final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has not been classified "significant". Mr. Miller determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this emergency final action. This action would increase the salable quantity and allotment percentage for the 1980-81 marketing year, which began August 1, 1980. It relieves restrictions on handlers. Since handlers currently are receiving hops from producers in volume, this action must be taken promptly so that they know what regulation will be in effect for the current marketing year.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect to this emergency final action are impractical and contrary to the public interest; and good cause is found for making this emergency final action effective less than 30 days after publication of this document in the **Federal Register.**

Notice was published in the March 11, 1980, issue of the **Federal Register** (45 FR 15555) of a proposal to establish for the 1980-81 marketing year, beginning August 1, 1980, a salable quantity of 69,200,000 pounds, and an allotment percentage of 115 percent. This action was based on the recommendation of the Hop Administrative Committee in accordance with provisions of Marketing Order No. 991, as amended (7 CFR 991), regulating the handling of hops of domestic production. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The final rule on this matter was issued April 4, 1980, and published in the April 10, 1980, issue of the **Federal Register** (45 FR 24441).

The revised salable quantity for the current marketing year is based upon a recommendation of the Committee made at its meeting October 14, 1980, and the following estimates for the marketing year beginning August 1, 1980.

(1) Total domestic consumption of 45,000,000 pounds of hops;

(2) Minus imports of 15,000,000 pounds of hops to result in domestic consumption of U.S. hops of 30,000,000 pounds;

(3) Plus total exports of 40,000,000 pounds of hops to equal 70,000,000 pounds total usage of U.S. hops;

(4) Plus 1,500,000 pounds to adjust for weight loss of hops processed into pellets and extract;

(5) Plus 4,100,000 pounds as an inventory adjustment; and

(6) Plus an adjustment of 500,000 pounds to provide for adequate supplies should some producer allotments not be fully produced.

Therefore, the salable quantity for the 1980-81 marketing year will be 76,100,000 pounds.

The salable percentage of 127 percent is computed by subtracting from this salable quantity 1,000,000 pounds for additional allotment bases for hops of the Fuggle variety pursuant to § 991.38(b) and § 991.138(c) and dividing the remainder by 59,270,000 pounds, the total of all allotment bases less the 1,000,000 pounds additional allotment bases for Fuggle variety hops.

After consideration of all relevant matter presented, including the information and recommendations submitted by the Committee; and other available information, it is found that to establish a salable quantity and allotment percentage as hereinafter set forth will tend to effectuate the declared policy of the act.

Therefore, the salable quantity and allotment percentage to be applicable to the 1980–81 marketing year (August 1, 1980–July 31, 1981) are established as follows:

§ 991.218 Allotment percentage and salable quantity for hops during the marketing year beginning August 1, 1980.

The allotment percentage during the marketing year beginning August 1, 1980, shall be 127 percent, and the salable quantity shall be 76,100,000 pounds.

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

Dated: October 24, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 80-33804 Filed 10-29-80; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1872

Real Estate Security; Servicing and Liquidation of Real Estate Security for Loans to Individuals and Certain Note-Only Cases

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) is revising its regulation on loan servicing to provide a computer input form for FmHA loan servicing offices to use to update the FmHA Finance Office accounting records. The use of this form will result in a faster and more accurate update of accounts. The use of the form will have no impact on the public or FmHA borrowers.

EFFECTIVE DATE: October 30, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. L. A. Isenberg, Systems Accountant, Financial Support Division, Room 4118, South Agriculture Building, 14th and Independence Avenue, Washington, DC 20250, (202) 447–4871.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been determined to be exempt from those requirements. L. A. Isenberg, Systems Accountant, made this determination because this item involves agency management and does not place any requirements on the public or FmHA borrowers. This instruction does not directly affect any programs or projects which are subject to A–95 clearinghouse review. FmHA is revising Subpart A of Part 1872, Chapter XVIII, Title 7, Code of Federal Regulations. 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 action however, is not published for proposed rulemaking since the purpose of the change is administrative in nature and publication for comment is unnecessary. Therefore, Part 1872, Subpart A, is amended as follows:

§ 1872.18 [Amended]

1. In § 1872.18(g)(2)(iii) add the following entry to the listing of forms following the reference to Form FmHA 451–25, "Status of Account."

1960–6 Assumption Agreement (Information) 2(9)—1–C—

2. In § 1872.18(g)(2)(iii), in the listing of footnotes, add a new footnote (9) following Footnote (8) to read:

(9) Original to Finance Office.

Note.—This document has been reviewed in accordance with FmHA Instruction 1901–G, "Environmental Impact Statements." It is the determination of FmHA that this 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, Pub. L. 91–190, an Environmental Impact Statement is not required.

Authority: 7 U.S.C. 1989; 42 U.S.C. 1180; 42 U.S.C. 2942; 5 U.S.C. 301; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary of Rural Development, 7 CFR 2.70; delegation of authority by the Director, Office of Equal Opportunity, 29 FR 14764, 33 FR 9850.

(FCDA No. 10.407—Farm Ownership Loans; FCDA No. 10.410—Low to Moderate Income Housing Loans)

Dated: October 9, 1980.

James E. Thornton,

Associate Administrator, Farmers Home Administration.

[FR Doc. 80-33842 Filed 10-29-80; 8:45 am]

BILLING CODE 3410-07-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 20

Standards for Protection Against Radiation; Burial of Small Quantities of Radionuclides

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to require NRC licensees to obtain specific approval to bury small quantities of radionuclides. Current NRC regulations provide that licensees may bury certain small quantities of radionuclides without prior approval. The amendments will provide greater assurance that buried radioactive material will not present a health hazard.

EFFECTIVE DATE: January 28, 1981.

Note.—The Nuclear Regulatory Commission has submitted this rule to the Comptroller General for such review as may be appropriate under the Federal Reports Act, as amended, 44 U.S.C. 3512. The date on which the reporting requirement of this rule becomes effective, unless advised to the contrary, reflects inclusion of the 45-day period which that statute allows for such review (44 U.S.C. 3512(c)(2)).

FOR FURTHER INFORMATION CONTACT: Mr. John W. N. Hickey, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (phone: 301–443–5966).

SUPPLEMENTARY INFORMATION: On December 4, 1978, the Nuclear Regulatory Commission (NRC or Commission) proposed to delete § 20.304 of 10 CFR Part 20, "Standards for Protection Against Radiation" (43 FR 56677). Section 20.304 allows licensees to bury certain small quantities of radionuclides without prior NRC approval.

As discussed in the notice of proposed rulemaking, several State representatives have suggested that the risk from burials of radioactive waste allowed by § 20.304 may be unacceptable. The quantities of radionuclides allowed to be buried pursuant to § 20.304 are 1,000 times greater than exempt quantities. Such quantities pose a small risk if they are properly buried and left undisturbed, particularly if they are dispersed through a large volume of waste material. However, § 20.304 imposes no concentration limits, and the quantities as concentrated "point sources" are potentially large enough to cause excessive radiation exposures if the radioactive material is mishandled, improperly buried, or disturbed after burial. For example, § 20.304 allows burial of up to one millicurie of cobalt-60. As a point source this quantity delivers a dose rate of over 100 millirems per hour at a distance of 10 centimeters. If a burial site were disturbed, and a person came into contact with one millicurie of cobalt-60 for an extended period, an overexposure could occur.

The Commission has concluded that it is inappropriate to continue generic authorization of burials pursuant to § 20.304 without regard to such factors as location of burial, concentrations of radioactive material, form of packaging, and notification of NRC. Therefore, the Commission will require that licensees obtain prior approval for new burials of the type currently allowed by § 20.304, and accordingly § 20.304 is being deleted from NRC regulations. Prior review of proposed burials will result in improved records regarding amounts and locations of future burials of radioactive material, and provide greater assurance that buried material will not present a health hazard at a later date. Thus, the risk of exposure of individuals accidentally disturbing buried radioactive waste would be reduced.

The Commission staff estimates that fewer than 100 licensees (out of about 20,000 NRC and Agreement State licensees) are performing burials allowed by § 20.304. NRC licensees will have 90 days to halt burials and apply for specific approval to resume burials pursuant to 10 CFR 20.302, or use alternative disposal methods such as transfer of waste to licensed commercial burial grounds. The NRC staff will provide information to licensees as appropriate related to obtaining approval for burials. Deletion of 10 CFR 20.304 will not affect material already buried, generally licensed and exempt material, or licensees who have already obtained specific approval to perform burials pursuant to 10 CFR 20.302.

Agreement State licensees will not be directly affected by the final rule, because they are subject to individual State regulations rather than NRC regulations. However, Agreement State officials have consistently supported deletion of § 20.304, and the Commission anticipates that those States which have not already done so will make changes in their regulations compatible with deletion of § 20.304.

As discussed in the notice of proposed rulemaking, the Commission has determined that an environmental impact statement need not be prepared because deletion of 10 CFR 20.304 will not significantly affect the quality of the human environment.

Public Comments

In reaching the decision to delete § 20.304, the Commission considered public comments received on the proposed rule change. These comments and the impact of deletion of § 20.304 are discussed in the value-impact assessment, which is available for inspection or copying for a fee at the NRC Public Document Room, 1717 H Street, Washington, D.C. 20555. The major public comments received are discussed below.

Thirty-eight sets of public comments were received on the proposed deletion of § 20.304. Seventeen commenters favored deletion, fourteen opposed deletion, and seven took no clear position. The major comments opposing deletion are: (1) Burials pursuant to § 20.304 do not represent a public health problem, (2) disposal of wastes at commercial burial grounds is not a good alternative because it is too expensive, it carriers its own risks, and the commercial sites are overburdened, and (3) NRC has not adequately outlined requirements for obtaining specific approvals for burials.

1. *Public health risk.* Several comments from institutions performing burials pursuant to § 20.304 provided information on their operations, indicating that their burial sites are safe because they are owned by the licensee, fenced and marked, located in areas of low risk of ground water contamination, or contain short-lived radionuclides in waste with low specific activity. Nevertheless, as discussed previously, the radionuclide quantities involved are potentially large enough to cause significant radiation exposures, if they are concentrated point sources, and the Commission has decided that case-by-case review of proposed burials is appropriate.

2. *Commercial burial grounds.* Many commenters incorrectly interpreted the proposed rule to mean that local burial would be prohibited, and that all waste would have to be shipped to commercial burial grounds. The Commission is not requiring that all radioactive waste affected by deletion of § 20.304 be shipped to commercial burial grounds. Licensee proposals for waste disposal will be reviewed on a case-by-case basis, including consideration of risk and economic costs. This is consistent with § 20.1(c) which provides that licensees should make every reasonable effort to maintain radiation exposures as low as is reasonably achievable, where "as low as is reasonably achievable" includes taking into account economics of improvement in relation to benefits to the public health and safety.

Several licensees performing burials pursuant to § 20.304 commented that it would be too expensive to ship wastes to commercial burial sites, and that in any case the sites are already overburdened. Estimates of the extra costs and volumes of waste involved ranged from $400 to $21,000 and 70 to 2000 cubic feet per year. It should be noted that: (1) The staff estimates that fewer than 100 licensees are performing burials pursuant to § 20.304, (2) until recently about 3,000,000 cubic feet of radioactive waste were being shipped annually to commercial sites, and (3) many institutions similar to those using § 20.304 are using commercial disposal sites. Therefore, while certain licensees may wish to dispose of high-volume, slightly contaminated waste by local burial for justifiable economic reasons, in many cases licensees could ship low-volume waste to commercial sites at reasonable cost without adding significantly to the total volume accepted at the sites.

The Commission recognizes problems associated with closures or reduced capacity of commercial burial grounds. This issue affects all licensees disposing of low-level radioactive waste, not just burials pursuant to § 20.304. The Commission staff will, of course, take into account the status of commercial burial sites in making any licensing decisions regarding disposal of radioactive waste.

3. *Criteria for disposal.* As discussed in the notice of proposed rulemaking, the Commission is reviewing existing policy on disposal of low-level radioactive waste and developing new regulations. These will be published in separate notices of proposed rulemaking. Until new regulations are developed, applications for waste disposal will be reviewed according to § 20.302, which requires licensees to submit information describing the waste material, the levels of radioactivity involved, the proposed conditions of disposal, the environment of the disposal site, and procedures to be observed to minimize the risk of unexpected or hazardous exposures.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 20, are published as a document subject to codification.

§ 20.304 [Removed]

1. Section 20.304, Disposal by burial in soil, is deleted.

2. In § 20.301, paragraph (c) is revised to read as follows:

§ 20.301 General requirement.

* * * * *

(c) As provided in § 20.303, applicable to the disposal of licensed material by release into sanitary sewerage systems, or in § 20.106 (Radioactivity in effluents to unrestricted areas).

3. In § 20.401, paragraphs (b) and (c)(3) are revised to read as follows:

§ 20.401 Records of surveys, radiation monitoring, and disposal.

* * * * *

(b) Each licensee shall maintain records in the same units used in this part, showing the results of surveys required by § 20.301(b), monitoring required by §§ 20.205(b) and 20.205(c), and disposals made under §§ 20.302, 20.303, and deleted § 20.304.[1]

(c) * * *

* * * * *

(3) Records of disposal of licensed material made pursuant to §§ 20.302, 20.303, and deleted § 20.304[1] are to be maintained until the Commission authorizes their disposition.

[1] Section 20.304 provided for burial of small quantities of licensed materials in soil. Notice of its deletion appears in the **Federal Register** of October 30, 1980 (45 FR ——).

4. The note following Appendix C of 10 CFR Part 20 is amended to read as follows:

Appendix C

* * * * *

Note.—For purposes of § 20.303, where there is involved a combination of isotopes in known amounts, the limit for the combination should be derived as follows: Determine, for each isotope in the combination, the ratio between the quantity present in the combination and the limit otherwise established for the specific isotope when not in combination. The sum of such ratios for all the isotopes in the combination may not exceed "1" (i.e., "unity").

* * * * *

(Sec. 161, b. and i., Pub. L. 83–703, 68 Stat. 948; sec. 201, Pub. L. 93–438, 88 Stat. 1243 (42 U.S.C. 2201, 5841))

Dated at Washington, DC this 24th day of October 1980.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80–33823 Filed 10–29–80; 8:45 am]

BILLING CODE 7590-01-M

10 CFR Part 25

Access Authorization for Licensee Personnel

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its regulation "Access Authorization for Licensee Personnel" to comply with a Commission policy easing security forms requirements for those individuals already possessing a security clearance granted by another Federal agency.

EFFECTIVE DATE: October 30, 1980.

FOR FURTHER INFORMATION CONTACT: Duane G. Kidd, Chief, Security Policy Branch, Division of Security, Office of Administration, United States Nuclear Regulatory Commission, Washington, D.C. 20555 (301) 427–4415.

SUPPLEMENTARY INFORMATION: 10 CFR Part 25, "Access Authorization for Licensee Personnel," was published in the **Federal Register** on March 5, 1980 (45 FR 14476) with an effective date of May 19, 1980. The effective date was changed to October 1, 1980 in a Federal Register Notice dated July 3, 1980 (45 FR 45256) to provide the Nuclear Regulatory Commission (NRC) additional time to furnish necessary administration guidance and for licensees to be able to achieve compliance with the regulations. The existing provisions of § 25.17 require that a complete set of NRC personnel security forms be completed as part of an application for a security clearance with NRC. This requirement was based on existing procedures and the necessity for the NRC Division of Security to review these forms and then seek copies of existing reports of investigations or initiate requests for new investigations. Realizing that many individuals already possess a security clearance or access authorization granted by another Federal agency and realizing that these security clearances were based on the same or very similar criteria and procedures, NRC sought to eliminate or substantially reduce the burden on licensees and their employees in obtaining an NRC security clearance. In this regard, the Commission, on July 17, 1980, approved a policy change in NRC's personnel security program that permits the NRC Division of Security to accept the certification of an individual's existing security clearance granted by another Federal agency and also eliminates the requirement to review reports of investigations. Based on this decision, the NRC Division of Security will not require new investigations for those individuals who had or were in processing for another Federal security clearance on October 1, 1980. This action may expedite the security clearance processing of individuals affected by this Part and may reduce the cost to licensees since new investigations will not be initiated. Additionally, the NRC Division of Security has decided to waive the forms requirements of § 25.17 for those individuals who possessed or who were in processing for another Federal security clearance on October 1, 1980. These amendments to 10 CFR Part 25 modify § 25.17 to permit individuals and licensees affected by this Part to submit applications in accordance with these revised procedures. Applications received after October 1, 1980 will be processed in accordance with the provisions of Part 25 and guidance supplied to licensees by the NRC Division of Security.

These revisions will substantially reduce the public burden by cutting the cost and reporting time required of licensees seeking NRC security clearances for their employees. These revisions will also reduce the burden on NRC by cutting the time and cost in processing applications for clearance. Furthermore, these revisions reflect public comments made during extensive discussions at public meetings held in Silver Spring, MD in April and May 1980. Therefore, the Commission for good cause finds that, in accordance with 5 U.S.C. 553(b) and (d), public comment procedures are not required, and these revisions become effective October 30, 1980.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and §§ 552 and 553 of Title 5 of the United States Code, the following amendments to 10 CFR Part 25 are published as a document subject to codification:

1. In § 25.17, paragraph (c)(6) is amended and paragraph (e) is revised to read as follows:

§ 25.17 Approval for processing applicants for access authorization.

* * * * *

(c) * * *

(6) Related forms where specified in accompanying instructions (NRC–254 and NRC–254A).

Forms identified in paragraphs (c) (1) and (2) of this section must be typed. Only a Security Acknowledgment (NRC Form 176) need be completed by any person possessing an active access authorization or in processing for an access authorization prior to the effective date of this rule. The access authorizations must be at an equivalent level to those required by NRC and granted or processed by another Federal agency.

* * * * *

(e) Applications for access authorization processing must be accompanied by a check or money order, payable to the United States Nuclear Regulatory Commission, representing the current cost for the processing of each "Q" and "L" access authorization request. Access authorization fees will be published in December of each year and will be applicable to each access authorization request received during the following calendar year. Applications from individuals having current Federal access authorizations may be processed expeditiously at less cost, since the Commission may accept the certification of access authorizations and investigative data from other Federal Government agencies which grant personnel access authorizations.

(Sec. 161i, Pub. L. 83-703, 68 Stat. Pub. L. 93-377, 88 Stat. 475; Sec. 201, Pub. L. 93-438, 88 Stat. 1242-2143, Pub. L. 94-79, 89 Stat. 413 (43 U.S.C. 2201, 5841))

Dated at Washington, D.C. this 23rd day of October 1980.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 33636 Filed 10-29-80; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Parts 211 and 212

[Docket No. ERA-R-80-37]

Conforming Amendments Regarding Crude Oil Acquired for the Strategic Petroleum Reserve

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is deleting 10 CFR 212.95, which currently sets forth the special pricing rule for crude oil acquired by the Federal Government for the Strategic Petroleum Reserve (SPR). Consequently, transactions involving crude oil sales for the SPR generally will be subject to the same rules as any other transaction. Certain technical provisions currently in § 212.95 concerning certifications and first sales in U.S. commerce will be retained as amendments to other sections of our regulations. In addition, we are clarifying the treatment of exchanges of crude oil for the SPR.

DATE: Effective September 24, 1980.

FOR FURTHER INFORMATION CONTACT:
Cynthia Ford (Comment Procedures), Economic Regulatory Administration, Room B-210, 2000 M Street, NW., Washington, D.C. 20461, (202) 653-3971.
William Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street NW., Washington, D.C. 20461, (202) 653-4055.
Scott Buch (Office of Regulatory Development), Economic Regulatory Administration, Room 7219, 2000 M Street NW., Washington, D.C. 20461, (202) 653-3166.
Harry A. Jones (Strategic Petroleum Reserve Office), Room 3G-024 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-4410.
Ben McRae (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-6739.

SUPPLEMENTARY INFORMATION:

I. Background

On June 30, 1980, the President signed the Energy Security Act ("ESA", Pub. L. 96-294). Section 801(a) of the ESA requires the President to undertake and continue crude oil acquisition for the SPR, at a level sufficient to assure that storage of crude oil in the SPR will be increased at an average rate of at least 100,000 barrels per day (B/D) for each fiscal year beginning after September 30, 1980. Section 805(a)(1) of the ESA directed the President to amend the Entitlements Program no later than August 29, 1980, so as to achieve the same effect as if lower tier crude oil were directly allocated to the Federal Government for storage in the SPR.

On August 21, 1980, in accordance with the ESA requirements, we issued a final rule that amended those sections of the Entitlements Program regulations dealing with the acquisition of crude oil for the SPR (45 FR 56788, August 25, 1980). Formerly, a supplier of imported crude oil to the SPR received entitlements as if the imported crude oil had been processed in a domestic refinery. The effect of these provisions was to reduce the Government's cost of imported crude oil for the SPR to approximately the national average cost of crude oil for all refiners. Under the new provisions, however, suppliers of crude oil for the SPR will not receive any entitlements for such crude oil. Rather, the Government will receive entitlement benefits for each barrel of crude oil, other than lower tier crude oil, that it acquires for the SPR. These benefits will be sufficient to lower the actual cost of crude oil for the SPR to approximately the lower tier ceiling price.

We have begun to acquire crude oil for the SPR by using the Federal share of Naval Petroleum Reserves (NPR) production at Elk Hills. Since inadequate transportation facilities prevent the direct placement of most of the NPR crude oil in the SPR, NPR crude oil will be exchanged for more accessible crude oil. On August 11, 1980, the Defense Fuel Supply Center (DFSC), the purchasing agent for DOE, issued a solicitation for competitive bids for crude oil to be exchanged for NPR crude oil. Some contracts have already been executed. In addition, we have proposed a mechanism for requiring exchanges of crude oil for NPR crude oil if this solicitation for competitive bids does not result in acceptable offers (45 FR 54662, August 15, 1980).

Under the DFSC solicitation, exchanges of NPR crude oil are to be accomplished by means of matching purchase and sale transactions. That is, each party would purchase the same volume of crude oil from the other party for the same price. One party could pay the other party a premium to reflect the greater value of the crude oil that it receives due to quality, location or other factors. Under the new entitlements rule noted above, the supplier of crude oil to the SPR will be deemed to retain the crude oil given up.

In anticipation of such transactions, we reviewed the special pricing rules for purchases of crude oil for the SPR at 10 CFR 212.95, which were adopted in June 1977 (42 FR 27908, June 1, 1977). We have determined that most of these provisions are unnecessary in light of changes to other regulations that have been made since § 212.95 was adopted.

II. Amendments Adopted

We are deleting 10 CFR 212.95 from the pricing regulations. While we are retaining certain parts of the former § 212.95 as amendments to other sections of our regulations, two of the primary provisions of § 212.95 are being completely eliminated. These provisions involve the "net return to seller" rule and the "separate inventory for SPR sales" rule.

The "net return to seller" rule was designed to ensure that the value of entitlements received by sellers of crude oil for the SPR would be taken into account in determining the price paid by the Government for such crude oil. Since the seller of crude oil for the SPR now does not receive any benefit under the Entitlement Program, the "net return to seller" rule is no longer relevant.

The "separate inventory for SPR sales" rule was designed to facilitate sales to the SPR by allowing resellers to segregate such sales from their ordinary transactions. This segregation of sales enabled a reseller to comply more easily with the provisions of Subpart F of Part 212, which governed crude oil resellers at the time § 212.95 was adopted. Currently, crude oil resellers are governed by the provisions of Subpart L of Part 212. These provisions make the "separate inventory for SPR sales" rule unnecessary.

Section 212.95 also contains special provisions concerning "first sales into U.S. commerce" and certifications by offerors and sellers of crude oil for the SPR. We are retaining these provisions with certain modifications discussed below and are placing them in the appropriate sections of the regulations.

The "first sales into U.S. commerce" rule in § 212.95 currently treats all sales of imported crude oil to the Government for the SPR as the first sale of such crude oil into U.S. commerce and thus, exempted by § 212.53(b) [1] from the pricing regulations. We adopted this rule because of uncertainty concerning the treatment of foreign crude oil acquired specifically for sale to the SPR. This objective can be achieved by a less expansive rule that only applies to sales of volumes of crude oil that have not already entered into the U.S. customs territory. Accordingly, we are modifying the rule to cover only these sales and are moving it to § 212.53(b).

The certification provision in § 212.95 generally provides that when a firm offers to sell or delivers crude oil to the Government for the SPR, it must certify the regulatory classification and ceiling price, if any, of the volumes of crude oil involved. The certification provisions are being set forth without any substantial change in a new § 212.133 of Subpart I of Part 212.[2]

In order to facilitate negotiations concerning exchanges of crude oil for the SPR, we are revising § 211.67(a)(7)(ii).[3] Specifically, we are clarifying the pricing of crude oil acquired for the SPR by means of a matching purchase and sale transaction. As explained in the recent rule on SPR entitlements, each party to such a matching purchase and sale transaction is deemed to retain the crude oil given up by it for the purposes of the entitlements program. Where the oil acquired for the SPR is domestic price-controlled crude oil, such a transaction can be economically practicable only if both parties are able to charge and receive market level prices for the crude oils involved in the matching purchase and sale. Of course, the selling refiner would still have to purchase entitlements for such price-controlled oil given up. Such a matching purchase and sale then becomes the economic equivalent of a crude oil exchange. Since the Government may engage in matching purchases and sales transactions, as well as exchanges, involving price-controlled oil, we are amending 10 CFR 211.67(a)(7)(ii) to clarify that in such matching purchases and sales the Government may pay, and the seller may receive, market level prices for the crude oil involved.

Another potential difficulty in negotiating exchanges of crude oil for the SPR is the valuation of a refiner's position in the Entitlements Program after such an exchange is completed. Section 211.67(a)(7)(ii) currently provides that crude oil deemed to be retained by a refiner shall be included in that refiner's crude oil receipts under the provisions of § 211.67(g)(2). Since § 211.67(g)(2) includes crude oil deemed to be retained in an exchange at the time that the crude oil acquired in an exchange would constitute a crude oil receipt, a refiner potentially might not incur a crude oil receipt until several months after the crude oil is transferred to the SPR. Calculation of the economic effect of this potential delay in the inclusion of a crude oil receipt involves many variables and, thus, could slow negotiations concerning exchanges for the SPR. Accordingly, in order to expedite negotiations involving exchanges for the SPR, we are amending § 211.67(a)(7)(ii) to provide that the crude oil deemed to be retained by a refiner shall be included as a crude oil receipt in the month that the SPR receives such crude oil.

III. Procedural Requirements

A. Section 404 of the DOE Act

Pursuant to the requirements of Section 404(a) of the Department of Energy Organization Act (DOE Act, 42 U.S.C. 7101 et seq., Pub. L. 95–91, as amended), we have referred this rule to the Federal Energy Regulatory Commission for a determination as to whether it would significantly affect any matter within the Commission's jurisdiction. Following an opportunity to review this rule, the Commission has declined to determine that it may signficantly affect any of its functions.

B. Section 7 of the FEA Act

Under section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. 787 et seq., Pub. L. 93–275, as amended) the requirements of which remain in effect under section 501(a) of the DOE Act, the delegate of the Secretary of Energy shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency (EPA) may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment. Such comments shall be published together with publication of notice of the proposed action.

A copy of this notice was sent to the EPA Administrator. The EPA Administrator has informed the ERA that he does not foresee today's amendments as having unfavorable impacts on the quality of the environment as related to the duties and responsibilities of the EPA. The EPA Administrator made this comment in light of our assurance that the original assumptions underlying the Environmental Impact Statement for SPR remain valid. However, the EPA Administrator noted that if at any future time DOE contemplates more frequent use of SPR, then further review of the program under the National Environmental Policy Act (NEPA, 42 U.S.C. 4321 et seq.) would be indicated.

C. National Environmental Policy Act

On October 20, 1980, the Assistant Secretary for Environment determined after consultation with the Office of General Counsel that today's amendments will not significantly affect the quality of the human environment within the meaning of NEPA.

D. Section 501 of the DOE Act

Under section 501(c) of the DOE Act we are not bound by the prior notice and hearing requirements of subsections (b)–(d) with respect to a rule upon our determination that no substantial issue of fact or law exists and that the rule is unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses. Where no such substantial issue or impact is foreseen, the proposed rule may be promulgated in accordance with section 553 of Title 5, U.S.C.

For reasons discussed below, we believe that none of the amendments raise substantial issues of law or fact or have a substantial impact on the Nation's economy or large numbers of

[1] Section 212.53(b) provides that the prices charged for the first sale of imports into U.S. commerce are exempt from the pricing provisions of 10 CFR Part 212.

[2] Subpart I of Part 212 sets forth several reporting requirements for those firms subject to the pricing regulations.

[3] Section 211.67(a)(7)(ii) is the section added by the recent SPR entitlements rule to deal with exchanges and matching purchases and sales for the SPR.

individuals or businesses. Specifically, the amendments deleting the provisions involving the "net return to seller" rule and the "separate inventory for SPR sales" rule and the amendments moving the provisions concerning "first sales into U.S. commerce" and certification requirements only conform the pricing regulations for crude oil acquired for the SPR to changes in our regulations after the adoption of § 212.95. The amendment concerning pricing in matching purchase and sale transactions for crude oil acquired for the SPR only clarifies the regulations. The amendment concerning the time at which crude oil deemed to be retained should be included as a crude receipt represents a technical change in the timing of crude oil receipts with respect to oil delivered to the SPR. This change raises no substantial issue of law or fact and will not have a substantial impact on the Nation's economy or large numbers of individuals or businesses. Therefore, these amendments shall be promulgated in accordance with section 553 of Title 5 U.S.C., pursuant to section 501(c) of the DOE Act.

E. Section 553 of the Administrative Procedure Act

Section 553(b) of the Administrative Procedure Act (APA) requires that general notice of a proposed rulemaking be published in the **Federal Register**, except in regard to interpretative or procedural rules, or when the agency for good cause finds that notice and public procedure thereon is impracticable, unnecessary, or contrary to the public interest.

As noted previously, the amendments concerning provisions currently set forth in § 212.95 affect those provisions only to the extent necessary to conform with prior changes in our regulations. The amendment concerning treatment of matching purchase and sale transactions and the amendment concerning the time at which crude oil deemed to be retained should be included as a crude oil receipt are necessary immediately to prevent any delay in current negotiations of voluntary exchange agreements to acquire crude oil for the SPR. The prompt arrangement of such exchanges is important to our national security. Moreover, given the minimal impact of the rule on the economy and most businesses, the interests in and the benefits to be derived from prior notice and comment are less than ordinarily is the case. We, therefore, find that the advance notice and public procedures of section 553(b) are impracticable, unnecessary, and contrary to the public interest.

Subsection (d) of section 553 provides that the required publication of a rule be made at least 30 days before the effective date of the rule, unless it either relieves a restriction or is an interpretative rule, or the agency otherwise finds good cause to make a rule effective immediately. As noted previously, certain of these amendments merely bring the pricing provisions for SPR crude oil into conformity with more recent amendments to the Entitlements Program regulations and the price regulations. The other amendments are necessary immediately to facilitate current negotiations concerning exchanges for the SPR. Therefore, we find good cause to make the rule effective on September 24, 1980, so that there will be no question as to the price rules in effect with regard to contracts for oil purchased for the SPR and so that negotiations concerning exchanges of crude oil for the SPR may be concluded promptly.

F. Executive Order 12044

Executive Order 12044 "Improving Government Regulations" (43 FR 12661, March 24, 1978) requires agencies subject to it to publish all proposed "significant" regulations for public comment for a minimum of 60 days. In accordance with the criteria listed in paragraph 6 of DOE Order 2030.1 (44 FR 1032, January 3, 1979), which implements Executive Order 12044, we have determined that the proposed regulation is not "significant". Order 2030 gives as an example of a nonsignificant rule a rule not subject to the public notice requirements of the APA.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, Pub. L. 95–70, Pub. L. 95–619, and Pub. L. 96–30; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95–91, Pub. L. 95–509, Pub. L. 95–619, Pub. L. 95–620, and Pub. L. 95–621; E.O. 11790, 39 FR 23185; E.O. 12009, FR 46267)

In consideration of the foregoing, Parts 211 and 212 of Chapter II, Title 10 of the Code of Federal Regulations, are amended as set forth below.

Issued in Washington, D.C., October 23, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

1. 10 CFR 211.67(a)(7)(ii) is revised to read as follows:

§ 211.67 Allocation of domestic crude oil.

(a) * * *

(7) * * *

(ii) In any case where the United States Government acquires from a refiner or other firm crude oil for storage in the Strategic Petroleum Reserve pursuant to an exchange or matching purchase and sale transaction, no domestic crude oil shall be deemed to have been transferred by that refiner or other firm in that exchange or transaction and such volume of domestic crude oil deemed to have been retained shall be included in a refiner's crude oil receipts in the month in which such domestic crude oil is delivered to and accepted for delivery to the Strategic Petroleum Reserve, and the United States Government shall be issued entitlements for the month prior to the month in which such domestic crude oil is delivered to and accepted for delivery to the Strategic Petroleum Reserve. The number of entitlements issued shall be calculated in accordance with the provisions of subparagraphs (iii) through (vi) of this paragraph (a)(7) on the basis of the volume of crude oil given up by the Government in any such exchange or transaction. Notwithstanding anything to the contrary in 10 CFR Part 212, in any matching purchase and sale transaction subject to this subparagraph, the United States Government may pay and the seller may receive any price for the crude oil purchased by the United States Government for the Strategic Petroleum Reserve.

* * * * *

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

2. 10 CFR 212.53(b) is revised to read as follows:

§ 211.53 Exports and imports.

* * * * *

(b) The prices charged for imports, but only the first sale into U.S. commerce, are exempt. For purposes of this subparagraph, any sale of imported crude oil, not already entered into the

United States customs territory, to the Government for storage in the Strategic Petroleum Reserve will be deemed a first sale into U.S. commerce.

* * * * *

§ 212.95 [Deleted]

3. 10 CFR 212.95 is deleted.

4. A new section 10 CFR 212.133 is added to read as follows:

§ 212.133 Certification of SPR Crude Oil.

When proposals are submitted and when crude oil is delivered to the Government for storage in the Strategic Petroleum Reserve, offerors and sellers shall certify what volumes of crude oil are lower tier, upper tier, or imported or domestic uncontrolled crude oil and shall certify the ceiling or other maximum lawful price, if any, applicable to the volumes so classified.

[FR Doc. 80-33849 Filed 10-29-80; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-EA-49; Amdt. 39-3961]

DeHavilland DHC-7; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment issues a new airworthiness directive applicable to DeHavilland DHC-7 type airplanes. It requires repetitive inspections for cracks and eventual alteration of the rear spar wing attachment to the fuselage frame, and the wing and board nacelle joint. Both areas of possible cracks, if uninspected, could cause structural failure due to fatigue from undetected cracks.

EFFECTIVE DATE: October 31, 1980. Compliance is required as set forth in the AD.

ADDRESSES: DeHavilland Service Bulletins may be acquired from the manufacturer at Downsview, Ontario, Canada M3K 145.

FOR FURTHER INFORMATION CONTACT: C. Birkenholz, Airframe Section, AEA-212, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212-995-2875.

SUPPLEMENTARY INFORMATION: The manufacturer reported that during fatigue testing, it determined that improved fatigue strength was required of the lower wing outboard nacelle joint and fuselage longeron at the rear spar frame to meet the present approved type design. Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendement

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations, 14 CFR 39.13 is amended, by adding the following new Airworthiness Directive:

DeHavilland: Applies to DHC-7 model airplanes, certificated in all categories.

(a) To prevent structural fatigue failure of the fuselage longeron at the rear spar frame, accomplish the following:

(1) For aircraft serial numbers 1 thru 14, with 2975 hours in service: Within the next 25 hours in service, after the effective date of this AD, unless previously accomplished within the last 975 hours in service, perform a radiographic inspection for cracks at the rear spar wing attachment to the fuselage frame in accordance with the instructions given in Figure 1 and 2 of DeHavilland Service Bulletin 7-53-9 or an approved equivalent. Repeat inspection at intervals not to exceed 1000 hours in service from the last inspection.

(2) If cracks are found, prior to next flight, repair in accordance with an FAA approved repair scheme supplied by DeHavilland and incorporate DeHavilland Modification No. 7/1622, in accordance with the above Bulletin's accomplishment instructions or approved equivalent.

(b) To prevent structural fatigue failure of the lower wing/outboard nacelle joint, accomplish the following:

(1) For aircraft serial number 1 thru 14 and 17, with 4975 hours in service: Within the next 25 hours in service, after the effective date of this AD, unless previously accomplished within the last 975 hours in service, perform a radiographic inspection for cracks at the wing/outboard nacelle joint in accordance with the instructions given in Figure 1 of DeHavilland Service Bulletin 7-57-4 or an approved equivalent. Repeat inspection at intervals not to exceed 1000 hours in service from the last inspection.

(2) If cracks are found, prior to next flight, repair in accordance with an FAA approved repair scheme supplied by DeHavilland and incorporate DeHavilland Modification No. 7/1645 in accordance with the above Bulletin's accomplishment instructions or an approved equivalent.

(c) Inspections in (a)(1) may be discontinued when Modification No. 7/1622 or an approved equivalent is accomplished. Inspections in (b)(1) may be discontinued when Modification No. 7/1645, or an approved equivalent is accomplished.

(d) Equivalent inspections repairs or alterations must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(e) Compliance times may be increased by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, upon receipt of substantiating data submitted through an FAA maintenance inspector.

Effective Date: This amendment is effective October 31, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, 1423, and 1431(b); Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c) and 14 CFR 11.89).

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044 as implemented by the Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

Issued in Jamaica, New York, on October 17, 1980.

Lonnie D. Parrish,

Acting Director, Eastern Region.

[FR Doc. 80-33472 Filed 10-29-80; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 80-WE-46-AD; Amdt. 39-3958]

McDonnell Douglas Model DC-6 Series Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amemdment supersedes a currently effective Airworthiness Directive (AD) which requires inspection and rework if necessary on nose gear upper torque link on McDonnell Douglas Model DC-6 and DC-7 series airplanes. This amendment deletes DC-7 applicability and provides additional rework detail. This superseding AD is required because of torque linked failures which have occurred subsequent to the issuance of the previous AD.

DATES: Effective November 3, 1980. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training C1-750 (54-60).

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue, SW., Washington, D.C. 20591, or

Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.